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REGION 2 NEWS

New Jersey Spotlight: NJ in Landmark Deal to Acquire 1,400 Acres of Premium Open Space

In a huge victory for conservationists, the state has entered into a deal to acquire nearly 1,400 acres of what may be the last most biologically diverse undeveloped land in New Jersey, a haven to threatened species like Pine Barren tree frogs and at least seven rare plants.

New Jersey Spotlight: Does Climate Change Increase Risks for New Jersey's Superfund Sites?

Many of New Jersey's Superfund sites are vulnerable to the effects of climate change, which threatens to contaminate surrounding areas with the hazardous materials the sites are designed to contain if they are damaged by floods, fires or storms, according to a report from the federal Government Accountability Office.

Asbury Park Press: Flooding gets worse for Jersey Shore homes, even with no storms

To Ortley Beach resident Paul Jeffrey, it's obvious. Flooding in the barrier island community is definitely getting worse.

Virgin Islands Daily News: Central High students to miss another week of classes

The Education Department announced late Monday night that Central High School will remain closed through early next week to accommodate "air quality-monitoring" by the U.S. Environmental Protection Agency.

Virgin Islands Daily News: WAPA board takes action to bolster electrical systems

The V.I. Water and Power Authority governing board recently approved several items aimed at enhancing generation stability at the territory's two power plants, and ensuring that permanent work on the electric grid continues.

Buffalo News: Electric scooters in New York? Lobbyists pushing Cuomo to make them legal

Will those convenient, yet controversial, electric motorized scooter sharing services, which are exploding across some areas of the country, be coming to New York by next summer?

Brooklyn Paper: NO-MORATORIUM: NATIONAL GRID TO LIFT GAS EMBARGO

National Grid announced that it will immediately resume connecting Brooklyn customers to natural gas on Monday — ending a six-month standoff between Gov. Andrew Cuomo and the British-based utility company that left thousands of residents without heat.

AM New York: Brooklyn truck crashes cause rush hour nightmares

The Monday morning rush hour in Brooklyn was marred by separate tractor-trailer crashes that tied up traffic along several major roadways.

Bloomberg Environment: Sherwin-Williams New Jersey Site Cleanup May Cost \$36 Million

The latest stage of a broad cleanup of a former Sherwin-Williams Co. industrial site in New Jersey would cost \$36 million, the EPA said Nov. 25.

St. Croix Source: STX Central High to Reopen After Thanksgiving Break

St. Croix Central High School will reopen and resume normal operations on Monday, Dec. 2, following more than a week of disruptions caused by a mystery odor that prompted complaints and physical reactions from students and faculty.

E&E News: NYC: Climate liability case isn't about curbing emissions

Lawyers for New York City last week told a court that the Big Apple is not trying to step on federal regulators' toes with its climate liability lawsuit against Chevron Corp. and other oil firms

New Jersey Advance Media: As floods and wildfires intensify, pollution could spread from N.J.'s most toxic sites

As flooding and wildfires intensify across the country, New Jersey — which contains more toxic Superfund sites than any other state — is at the heart of a potential contamination crisis, according to a new report from the federal government.

Newsday: Suffolk County Water Authority customers to pay extra \$80 per year

Suffolk County Water Authority customers will have to pay an extra \$80 per year for treatment of soon-to-be regulated contaminants, including 1,4-dioxane, starting January 1.

The Jersey Journal: Could Hoffa be buried in the former PJP Landfill in Jersey City?

Could the 40-plus year search for Jimmy Hoffa end in, of all places, Jersey City?

NATIONAL

Agriculture

Inside EPA: White House 'Bioeconomy' Effort Raises Policy, Technology Questions

EPA

Inside EPA: States Seek To Influence EPA's Reformulation Of RCRA Grants' Allocation

USA Today: Trump EPA's cynical 'transparency' ploy would set back pollution science and public health

Salon: How EPA director Andrew Wheeler is using scientific transparency as a weapon

Climate

E&E: 'Clean Economy Act': Ambitious goal but few specifics

E&E: Federal watchdog says government needs a resilience strategy

PHYS: The symbolic and substantive politics of climate change

Chron: Could northwest Houston superfund be affected by flooding?

Water

E&E: Ohio to create wetlands as part of algae-fighting strategy

Tribune Star: EPA wants to clarify public waterway rules

Bloomberg: Tesoro Socal Pipeline Can't Shake Long Beach Cleanup Order

Air

Inside EPA: D.C. Circuit Will Review EPA Duty For Adding 'Missing' Toxics To Air Rules

Fuel

FB: Farm Bureau to EPA: Small Refinery Waivers Must be Based on Actual Exemptions

The Neighbor: AG Nessel joins lawsuit opposing EPA attempts to revoke California's control of emission standards

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New Jersey Spotlight

<https://www.njspotlight.com/2019/11/state-in-landmark-deal-to-acquire-1400-acres-of-premium-open-space-in-cumberland-county/>

NJ in Landmark Deal to Acquire 1,400 Acres of Premium Open Space

Conservationists ebullient after long fight to preserve biologically diverse Holly Farm lands

By Tom Johnson

November 26, 2019

In a huge victory for conservationists, the state has entered into a deal to acquire nearly 1,400 acres of what may be the last most biologically diverse undeveloped land in New Jersey, a haven to threatened species like Pine Barren tree frogs and at least seven rare plants.

The acquisition of the Holly Farm tract from Atlantic City Electric caps a more than two-decade-old fight to buy the property by the state's Green Acres program. The purchase of the land — between two federally designated national Wild and Scenic Rivers — will connect previously set-aside lands acquired by the Nature Conservancy to expand the Menantico Ponds Wildlife Management Area by 5,500 acres.

The deal, not yet finalized so purchase terms remain undisclosed, is the latest twist in long negotiations to preserve Holly Farm, a place where the cultivation of holly trees earned Millville in Cumberland County the nickname of the Holly City. In the past, the state Department of Environmental Protection had offered as much as \$3.5 million for the property.

The acquisition almost never happened. Back in 2010, under urging from the Christie administration, the state Board of Public Utilities narrowly authorized the sale of the tract to a developer who wanted to put a golf course and senior housing on the site. But the market for senior housing collapsed in the area, and the developer never won approval for a key environmental permit to develop the site.

Critically important

“Safeguarding New Jersey’s interconnected open spaces and diverse ecosystem is critically important to protecting our environment,” Gov. Phil Murphy said in a press statement announcing the deal. “Through the

acquisition of Holly Farm, we are able to preserve New Jersey's natural resources and become more resilient to the devastating effects of climate change.”

The two-square mile tract was described by Tom Wells, director of government relations for the Nature Conservancy, as a crown jewel and missing piece of New Jersey's open space system. “This is one of the most important land preservations in many years,” said Wells, a former director of the DEP's Green Acres programs. And one of the largest acquisitions, according to environmentalists.

The state first offered to buy the tract in 1999, initially offering \$2.6 million, later upped to \$3.5 million. The area is surrounded by 27,000 acres of mostly pristine forest and wetlands, already acquired by the state or the Nature Conservancy.

It is home to seven rare plants, including the sensitive jointvetch, a federally and globally protected species, which typically occurs at outer marshes and shores. Other species found at the site include the bald eagle, timber rattlesnakes, and red-headed woodpeckers.

“This is a fantastic day for the environment for New Jersey,” said Ed Lloyd, director of the Environmental Law Clinic at Columbia University. “After three decades of negotiations, we want to commend Atlantic City Electric and the DEP for preserving this gem.”

“This is tremendous news for the people and animals that call New Jersey home,” added Jennifer Coffey, executive director of the Association of New Jersey Environmental Commissions.

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New Jersey Spotlight

<https://www.njspotlight.com/2019/11/does-climate-change-increases-risks-for-new-jerseys-superfund-sites/>

Does Climate Change Increase Risks for New Jersey's Superfund Sites

Many NJ cleanup locations seen vulnerable to fires, floods, storm-surge and sea-level rise

By Jon Hurdle

November 26, 2019

Many of New Jersey's Superfund sites are vulnerable to the effects of climate change, which threatens to contaminate surrounding areas with the hazardous materials the sites are designed to contain if they are damaged by floods, fires or storms, according to a report from the federal Government Accountability Office.

The congressional watchdog agency named 141 New Jersey sites in a [national survey](#) of more than 1,500 that have been or are still subject to environmental cleanup, and said that many of the Garden State locations could be damaged by floods or fires that are caused by climate change.

The survey included the Kin-Buc Landfill in Edison Township, Middlesex County which lost its state permits as a municipal and industrial waste facility in the 1970s after being found to have leaked PCBs into a nearby creek and discharged millions of gallons of oil and other wastes.

Fires, hurricanes, floods

Now, the Kin-Buc site is seen to have a high potential for wildfires, vulnerability to hurricanes at even their lowest intensity, the highest exposure to floods and the potential to be inundated by only one foot of sea-level rise, far less than is forecast for the Jersey Shore by the end of the century.

Likewise, the Federal Creosote site next to the Raritan River in Manville, Somerset County, was deemed by the GAO to be susceptible to wildfires and once-in-a-century flooding. The conclusion comes after some 20 years of environmental remediation that removed thousands of tons of contaminated soil and capped areas found to contain carcinogenic material left by wood treatment that took place there for about 45 years until the mid-1950s.

And the Crown Vantage Landfill beside the Delaware River in Alexandria Township, Hunterdon County was deemed by the GAO to be vulnerable to a once-in-a-century flood almost 30 years after New Jersey environmental officials began investigating its discharges of contaminants from a nearby paper mill. The site is now fenced off and monitored to make sure it is not disturbed, according to the U.S. Environmental Protection Agency.

Nationally, some 60% of Superfund sites are vulnerable to climate change, the agency said, basing its conclusions on climate and other data from four federal agencies. It said the sites “are located in areas that may be impacted by selected climate-change effects.”

NJ at higher risk

New Jersey Sierra Club director Jeff Tittel said the report is of particular concern in New Jersey because of its unusual vulnerability to the effects of climate change, including sea-level rise.

“When these sites flood, they will wash all kinds of toxic chemicals into streams, rivers and even homes,” he said.

Where contaminated material has been capped rather than removed, flooding will cause the caps to fail, allowing the contaminants to enter groundwater, Tittel said.

The GAO analyzed Superfund sites on the National Priority List. (New Jersey has the highest number of any state, according to EPA data.) About 90% of the so-called NPL sites are not federal, which means they are typically owned by private businesses or municipal or state governments. Cleanups at those sites, however, are conducted or overseen by the EPA.

The agency was asked by Congress to look at whether the contaminated sites could be exposed to flooding, sea-level rise, wildfires and storm surge, and whether the EPA, which oversees the sites’ cleanup, has been doing enough to plan for climate-related effects in those locations.

Noting that the NPL program has recorded more than 500 contaminants including arsenic and lead, the GAO cited the Fourth National Climate Assessment of 2018 in predicting that climate change could make natural disasters more frequent or intense and increase the risk of damage to the sites.

The GAO recommended that the EPA do more to integrate climate change into its assessment and risk-response of Superfund sites and clarify how its actions at the sites help to meet its goals of protecting human health and the environment.

EPA rejects recommendations

But the EPA rejected three of the GAO’s four recommendations, and issued a statement saying its current processes are enough to ensure the sites’ safety.

“The EPA strongly believes the Superfund program’s existing processes and resources adequately ensure that risks and any effects of severe weather events, that may increase in intensity, duration, or frequency, are woven into risk response decisions at nonfederal NPL sites,” said EPA assistant administrator Peter Wright.

The agency said it is already incorporating climate change into its management of the sites, “as a standard practice in cleanup projects.”

The EPA’s arguments were rejected by 11 U.S. Senate Democrats including New Jersey’s Cory Booker and Rep. Betty McCollum, a Minnesota Democrat who sits on the House Appropriations Committee. They attacked

the EPA for rejecting much of the GAO report, and asked to see evidence of the agency's pursuit of climate-related policy.

"We believe that EPA's refusal to implement GAO's recommendations could result in real harm to human health and the environment as the effects of climate change become more frequent and intense," the lawmakers said in a letter to EPA administrator Andrew Wheeler.

They said the GAO's report supports the conclusion that the EPA's "shortcomings" in managing risks from climate change have largely resulted from the agency's leadership under the Trump administration, which has said it plans to withdraw the United States from the Paris Climate Accord to curb carbon emissions.

The lawmakers demanded documents showing that climate events like hurricanes and storm surges are included in EPA's policies.

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Asbury Park Press

<https://www.app.com/story/news/local/land-environment/2019/11/26/rising-seas-put-more-jersey-shore-homes-risk-flooding/2521582001/>

Flooding gets worse for Jersey Shore homes, even with no storms

By Jean Mikle

November 26, 2019

To Ortley Beach resident Paul Jeffrey, it's obvious. Flooding in the barrier island community is definitely getting worse.

On the afternoon of Nov. 19, a sunny fall day, Jeffrey took photos of tidal flooding on Sixth Avenue, where a truck whizzed by, stirring up a wake of brackish water.

The street had flooded at high tide, even though strong winds from an offshore storm had subsided, and there was no rain that day.

For Jeffrey and many others who live in lower-lying areas of the Jersey Shore, there is little doubt that flooding has increased in recent years.

"It's not windy today, the storm is gone, the sky is clear," Jeffrey said. "There is no doubt that it is more frequent and worse than it was."

A new report from independent researchers the Rhodium Group confirms Jeffrey's belief: sea-level rise caused by increasing global temperatures since 1980 have put 23,000 more New Jersey homes and other buildings — worth \$13 billion — at risk of frequent flooding.

"Warming oceans take up more space, a process known as thermal expansion, which contributes — along with melting glaciers and ice sheets — to sea-level rise," the report states. "Globally, sea levels have risen by 7 to 8 inches since 1900, at a rate greater than any similar period in at least the last 3,000 years."

Sea levels along New Jersey's coastline have risen more than twice as much as the global average, according to the report. Sea level in Atlantic City, for instance, has risen 15.8 inches since 1900, and nearly 6 inches since 1980, the report says.

Other findings in the report include:

- There are 27,000 more buildings — worth \$15 billion — that are now likely to flood at least once a year.
- In Ocean County, for example, 15,014 homes are now at risk of frequent flooding — also called "sunny day flooding" — which is temporary flooding of low-lying areas near the coast during full and new moons. That's up from 4,985 homes that were at risk in 1980, according to the Rhodium Group report.
- In Monmouth County, the number of homes at risk from frequent flooding events has risen to 4,942, up from 2,812 in 1980.
- Ocean County has 31,931 homes at risk of flooding at least once a year, up from 19,232 in 1980. Monmouth has 8,225 houses that are at risk of flooding annually, up from 6,644.
- Fourteen percent of Ocean County buildings — and 4 percent of those in Monmouth — are at risk of annual flooding. In 1980, the percentages of buildings at risk were about 9 percent in Ocean and 3 percent in Monmouth.
- Cape May County has the highest percentage of buildings at risk for annual flooding, with 28 percent of the buildings in the county vulnerable to flood.
- Changes in hurricane activity, combined with sea-level rise, have made 62,000 to 86,000 New Jersey properties likely to experience at least one flood in a 30-year period.

Sea-level rise has a big economic impact as well: research by First Street Foundation estimates tidal flooding changes caused by rising seas have already reduced home values in New Jersey by \$4.5 billion.

The cost of wind and flood damage will continue to grow in the years ahead, according to the report, with an additional \$1.3 billion to \$3.1 billion in average annual losses expected statewide due to projected changes in sea level and hurricane activity, according to Rhodium Group report.

"These projections are not foregone conclusions," according to the researchers. "Future reductions in global emissions would substantially reduce these hazards in the second half of the century, but that alone will not be enough. ... Investments in resilience, both in flood-prone coastal counties and non-coastal counties facing growing hurricane wind risk, can further reduce future risk."

The importance of increasing resilience in flood-prone coastal communities was the focus of U.S. Sen. Bob Menendez's remarks on the seventh anniversary of superstorm Sandy last month.

Menendez, D-N.J., has been lobbying for passage of a bipartisan bill that extends the National Flood Insurance Program through 2024, and provides \$1 billion annually for flood mitigation projects.

The bill would require mitigation for properties that have suffered repeated flooding incidents, and also doubles — to \$60,000 — Increased Cost of Compliance grants that can be used for projects that would make homes and businesses less vulnerable to floods.

ICC grants are available to flood insurance policy holders, but currently can only be accessed after a home is damaged by flood.

The Menendez legislation allows access to the money before a natural disaster. The bill has garnered bipartisan support, but has also run into resistance from some lawmakers who view the NFIP as a taxpayer-funded bailout for wealthy homeowners, or an incentive for people to rebuild in flood-prone areas.

The flood insurance program has been extended until Dec. 20.

The Rhodium report is the latest to stress the risk posed by sea-level rise to New Jersey's coastal properties.

An August report by Climate Central showed that the state has allowed more new homes to be built in areas at risk for flooding from sea level rise than any other state, with Ocean County leading the way with more than 2,300 new homes; they face a 1-in-10 risk of flooding each year.

The Climate Central report estimates that New Jersey overall will have nearly 3,100 new homes at risk of annual flooding by 2050.

Ocean County Sheriff Michael G. Mastronardy said flooding in the county is noticeable during new and full moon tides.

"We're getting flooding in Seaside Park, Island Heights, Pine Beach, Waretown," Mastronardy said.

In Toms River, the township has been working to elevate several roads in flood-prone areas, raising the pavement and resurfacing it to reduce frequent flooding.

Ortley Beach resident Jeffrey noted that Washington Avenue in Ortley was one of the streets recently raised as part of the ongoing road elevation project. But water was still pooling at intersections on Washington Avenue during the Nov. 19 high tide, he said.

"The street was raised 18 inches two years ago, and there is still water at the corners," Jeffrey said.

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Virgin Islands Daily News

http://www.virginislandsdailynews.com/news/central-high-students-to-miss-another-week-of-classes/article_b06d8e8d-a593-5c99-977a-ebbc10846eac.html

Central High students to miss another week of classes

By Brandy Brookes

November 26, 2019

The Education Department announced late Monday night that Central High School will remain closed through early next week to accommodate "air quality-monitoring" by the U.S. Environmental Protection Agency.

According to the released statement, classes will resume on Dec. 2.

In the meantime, EPA officials began talks with the nearby Limetree Bay Refining "to determine if the noxious odor that caused students and staff to experience symptoms of vomiting and headaches on Nov. 12, 13 and 18 might be originating from the plant."

"So far, since we have been here since Thursday afternoon, we have not seen any levels of hydrogen sulfide, sulfur dioxide, hydrogen cyanide — these are the main components that would react — on campus that would cause any concerns at all," EPA On-Scene Coordinator David Rosoff said in the news release.

Monday night's announcement came hours after a group of 30 people — including students, parents, local and federal officials — toured the campus ahead of a decision as to whether classes would resume.

The three days highlighted in the Education statement represent the three times the school was shut down after students first complained of a "gaseous odor" and were sent home at midday on Nov. 12. Students and teachers also complained of a subsequent "propane-like odor" that Education officials later identified as a "gear oil spill" from large trucks brought on campus to flush out what was initially discovered to be blocked sewage lines on Nov. 18.

Education spokesperson Cynthia Graham told The Daily News earlier Monday that due to some "final fixes" at the school, the reopening would be delayed.

Health Department officials are expected to hold “informational sessions on the Central High campus on Dec. 2 to reassure students and staff and answer any questions they might have,” the release stated. “Government agencies will be on hand to provide support as needed.”

In addition to Central students, parents, Education and EPA officials, representatives from the V.I. Department of Planning and Natural Resources, the V.I. Board of Education, as well as senators and their staff toured the campus, where some reported sewage water had leaked in an area where it remained stagnant.

Graham, when reached Monday night for comment on the stagnant water, denied the reports, saying instead that there was a “damp smell” from a manhole that was opened during the tour “like anything that was closed for awhile.”

Monday’s tour occurred after Education Commissioner Racquel Berry-Benjamin issued a statement Sunday, noting she wanted to invite “some of our stakeholders in to gain their feedback on the air quality.”

At the time she said Central High was expected to reopen and resume normal operation today, pending the results of Monday’s walkthrough.

Graham, asked about ongoing mitigation at the school, said “contaminated concrete” from the oil spill that also spilled into the soil, was removed and replaced with new concrete.

Education did not address whether there will be make-up days for students who have been in and out of school since Nov. 12.

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Virgin Islands Daily News

http://www.virginislandsdailynews.com/news/wapa-board-takes-action-to-bolster-electrical-systems/article_8ac2506c-elff-5715-8b49-1f724149add3.html

WAPA board takes action to bolster electrical systems

November 26, 2019

The V.I. Water and Power Authority governing board recently approved several items aimed at enhancing generation stability at the territory’s two power plants, and ensuring that permanent work on the electric grid continues.

According to a WAPA statement, the board approved a no-cost contract extension to RG Engineering for its ongoing work on Unit 17. The contractor is carrying out repairs on the unit, which once back in service, will provide additional and standby generation capacity for the Estate Richmond Power Plant on St. Croix.

The board also approved:

- Purchase orders with Doosan Turbomachinery Services for replacement parts on Unit 17, and to provide inspection services for the unit once repairs are completed.
- A time extension of an engineering services contract for fire protection system upgrades at the Harley Power Plant on St. Thomas. The no-cost extension is required to facilitate a previously authorized payment to the vendor.
- An amendment to existing contracts with Haugland Energy and BBC Electric to insert omitted language on previously approved contracts. The contracts relate to the company’s ongoing grid hardening projects territorywide.

- Modifications to an existing composite pole contract to include installation of 60- and 65-foot poles. Without the modification, WAPA cannot use federal funds to pay for the installation of the omitted pole lengths.

In his report to the board, WAPA Executive Director Lawrence Kupfer said there has been an increase in electrical demand in the territory over the last few months. However, he added, demand in both districts remains below pre-storm levels, referring to hurricanes Irma and Maria in 2017.

Kupfer told board members that the volume of LPG fuel being used to generate electricity is below target due to ongoing mechanical issues with two WAPA-owned generators.

He also addressed ongoing issues with Unit 26 on St. Thomas, which was at the center of districtwide service interruptions earlier this month.

“Until APR Energy can resolve the issues with the unit, we are doing our utmost to avoid including Unit 26 in the dispatch,” Kupfer said in the statement.

He reported no unusual developments with WAPA’s potable water systems.

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Buffalo News

<https://buffalonews.com/2019/11/25/industry-lobbyists-press-cuomo-to-legalize-electric-scooters-in-new-york/>

Electric scooters in New York? Lobbyists pushing Cuomo to make them legal

By Tom Precious

November 25, 2019

Will those convenient, yet controversial, electric motorized scooter sharing services, which are exploding across some areas of the country, be coming to New York by next summer?

That depends on the ability of a battalion of well-placed lobbyists and their clients to convince a reluctant Gov. Andrew M. Cuomo to sign – not veto – legislation approved by lawmakers in June to legalize both e-scooter and e-bike sharing services.

The companies, nearly all of them start-ups that formed in California the past few years, have spent thousands of dollars a week on lobbyists to try to win Cuomo to their side, according to disclosure reports filed with the state.

With their customers ringing up more than 100,000 rides a day in the 100 or so U.S. municipalities that have welcomed the devices onto their streets and sidewalks, e-scooter companies are eyeing the Empire State, and especially New York City, as a potential cash-cow that could lure even more states to join the micromobility revolution.

Dozens of in-house and retained lobbyists are engaged in this last-ditch effort – with a Dec. 31 deadline for Cuomo to act – of holding meetings and phone calls with top officials from the governor’s counsel’s and budget office, as well as his tax and motor vehicles agencies, state lobbying records show.

Will it work? The Cuomo administration declined to say, and that has left scooter companies – from California startups to Ford Motor Co. to Uber and Lyft – uneasy.

Jason Conwall, a Cuomo spokesman, released only two things on the scooter matter. One was a statement saying it is the responsibility of the administration – in considering the more than 350 bills still not yet acted upon by Cuomo from the past legislative session that ended in June – to ensure bills are “responsible, enforceable and accomplish their intended purpose.”

He also provided comments Cuomo made at a Capitol event on the day the session was ended. Cuomo, asked by a reporter about the scooter bill, returned the question by asking aloud a series of questions about road and sidewalk safety and whether it makes sense to simply let an unlicensed electric scooter or bike on New York’s streets. “That’s a bill that’s going to need more review and discussion,” he said then.

Supporters of the bill say, privately, that few, if any, substantive discussions on the matter with have been held Cuomo’s office. One source said Cuomo met last week with e-scooter representatives, where he again raised concerns about the bill and said he is not sure if he will sign it into law.

That could lead to scenarios whereby Cuomo could veto it, simply sign it or sign it having cut deals with lawmakers to amend the bill when the 2020 session starts in January to address whatever specific concerns Cuomo might have.

Neither of the bill’s sponsors – Democrat Jessica Ramos in the Senate and Democrat Nily Rozic in the Assembly – would discuss the matter.

A lobbying money flow

Lobbyists and their clients are bumping into one another at the Capitol and on phone calls on every issue as Cuomo and his advisers weigh still-pending bills minor and big, highly local and statewide in scope.

The e-scooter sharing industry is no exception. One company, California-based Bird, spent \$23,000 on two lobbying firms in September and October to press its case with officials in the Cuomo administration, as well as New York City – which could become the nation’s financial prize for the industry if the bill is adopted.

Another California company, Neutron Holdings, which goes by the street name of Lime, spent \$42,000 on lobbying during the same period.

Other scooter interests spending money in Albany this fall include some other firms few New Yorkers have ever heard of — yet, anyway:

- Skip Transport, out of San Francisco, spent \$8,000 in September and October.
- Spin, also from San Francisco and which is now owned by Ford Motor Co., spent \$22,000.
- Lyft and Uber, the ride-sharing giants, also reported some undisclosed amount of lobbying expenses to pitch the governor’s office and others to get the scooter bill signed.

“We’re encouraged by conversations we’ve had with leaders throughout the state, including the second floor (at the Capitol where Cuomo works), and we’re hopeful this can get done by the end of the year. Cities across the state have shown a clear interest in adopting micromobility as a way to improve access to opportunity while reducing environmental impacts from personal car use,” said Phil Jones, Lime’s senior director for government relations.

The pitch

The pending legislation in New York would permit e-scooter and e-bike sharing services statewide. The devices are activated via a mobile app and charge users on a per-minute basis. Advocates say they are a cheaper alternative to cars while also reducing carbon emissions, serve as a “last-mile” option for people to get to their destination from public transportation and are convenient for people living in urban neighborhoods.

In parts of New York City, the electric bike issue has become a kind of human rights push; low-income food delivery people, for instance, have faced heavy fines for using e-bikes to make their trips. The pending bill would ban the devices in Manhattan, given its already congested streets and sidewalks.

The bill features a key section that advocates are using to try to promote its approval with Cuomo: local say. It states that communities must “opt in” – through a vote by a local governing board – in order for the e-scooter or e-bike services to commence. No support, no e-scootering around a community.

Moreover, localities can make stricter rules than called for in the state bill. For instance, lawmakers sided with e-scooter companies and left the bill silent on whether e-scooter users have to wear a helmet. A locality could require them, just as it could also limit precisely where and when the scooters and bikes could be used.

A number of local government officials – in communities from Rochester to Yonkers to Long Island – have expressed an eagerness in having e-scooters and e-bikes as part of their transportation offerings for residents to be better able, for instance, to get from a bus or train stop to their homes or jobs in areas that now offer either no or spotty public transportation. The Buffalo city council in September passed a resolution asking city agencies to look into the feasibility of how e-scooter and e-bike programs might work.

Sen. Tim Kennedy, a Buffalo Democrat and chairman of the Senate Transportation Committee, is urging Cuomo to sign the bill to “give New Yorkers all across the state an opportunity to participate in the new transportation alternative that other communities and states are taking advantage of.”

Bird said e-scooters “fit naturally into the governor’s (environmental) platform and help cities all over the Empire State reach their carbon-reduction goals. New Yorkers are ready for this new transportation option, and we are counting on Governor’s Cuomo’s leadership to make their hopes a reality.”

The problems

When all shared micromobility devices are counted, 84 million trips were taken on them in 2018 in more than 100 U.S. cities, up from just 35 million the previous year, reported the National Association of City Transportation Officials, a North American group.

When just e-scooters are counted, 38.5 million trips were taken last year, up from just 321,000 eight years ago. The growth period has occurred over the past two or so years following the emergence of Bird, Lime and some other firms.

In what is called the “dockless” sharing industry – where riding devices are not picked up at a designated, locked docking station – e-scooters surpassed dockless bikes in 2018, the group said. About 40% of e-scooter trips took place in three U.S. communities: Los Angeles, San Diego and Austin, Texas.

That growth has presented problems. Chief among them is safety. Many riders don’t wear helmets and the devices can exceed 20 mph at top speed; a number of deaths have been reported. Communities have had problems with people getting drunk at bars or parties and then hopping onto a scooter. Some places, including Oregon, now require helmets for e-scooter users.

In April, the Austin Public Health Department, with help from the U.S. Centers for Disease Control and Prevention, released a study of e-scooter use over a three-month period. It looked at nearly 1 million rides during that period. It found 190 scooter-related injuries; of those, only one rider was wearing a helmet at the time of an accident.

Some e-scooter users ride on sidewalks, presenting safety problems for pedestrians. Some scooter users don’t follow voluntary company requests that they return the devices to a bike rack area and instead just drop the scooters wherever they feel like it – like in the middle of a sidewalk or on somebody’s private property.

Industry officials say it is in scooter company’s interests to ensure e-scooters are used safely.

The industry now has to convince one person in New York: Cuomo. In January, Cuomo proposed his own e-scooter/e-bike plan. It was more restrictive than the industry wanted, requiring helmets by users and imposition of certain fines for misusing the devices.

The Legislature came up with its own version and passed it in the waning hours of session.

The last time he spoke just a bit extensively on the topic, Cuomo in June said he had “heard a number of concerns from safety advocates who don’t think you should allow scooters and e-bikes on sidewalks with pedestrians. They think people should have to wear a helmet,” he said.

“When does a bike with an engine become a bike that should be registered as a motor vehicle, and licensed?” he asked. “Remember mopeds? At what point is it a motor vehicle?”

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Brooklyn Paper

<https://www.brooklynpaper.com/no-moratorium-national-grid-to-lift-embargo/>

NO-MORATORIUM: NATIONAL GRID TO LIFT GAS EMBARGO

By Jessica Parks

National Grid announced that it will immediately resume connecting Brooklyn customers to natural gas on Monday — ending a six-month standoff between Gov. Andrew Cuomo and the British-based utility company that left thousands of residents without heat.

“This agreement is a victory for customers,” Cuomo said. “National Grid will pay a significant penalty for its failure to address the supply issue, its abuse of its customers, and the adverse economic impact they have caused.”

National Grid implemented a moratorium on new gas hookups for new customers in May, shortly after state regulators nixed plans for a 23-mile long gas pipeline off of the Coney Island coast.

Elected officials overwhelmingly accused the company of holding New Yorkers hostage in an effort to get permission for the pipeline — including in a letter penned by 17 Council members in July.

And the embargo on new customers was particularly devastating for Kings County entrepreneurs, including many would-be business owners who were unable to open their doors due to lack of gas.

The Interim President of National Grid — which runs a state-granted monopoly in Brooklyn, Queens and parts of Long Island — leadership hit back on the strong-arming accusations, arguing that the moratorium was a necessary evil spurred by supply shortages that would inevitably come if the pipeline was not built.

“Every decision we make is driven by National Grid’s commitment to provide safe and reliable service to our customers, including the decision to implement the moratorium,” said Badar Khan. “We understand the frustrations of everyone who experienced a delay in service during this period and regret that we did not provide more notice or explanation to our customers about the moratorium.”

The parties reached the new agreement to resume gas hookups amid calls for state regulators to strip National Grid of their state-granted monopoly status — which Cuomo had threatened to do if new customers continued to be denied service.

Under the newly struck deal, the utility giant will present solutions to meet long-term supply needs throughout the company's coverage areas — with a June 2020 deadline to identify a plan, slated to be implemented by Fall 2021.

Also, National Grid has agreed to pay a \$36 million penalty to compensate customers who were adversely impacted by the moratorium and to support energy-efficiency measures and clean gas solutions.

To ensure that National Grid respects the newly forged agreement, the state has appointed an independent monitor to oversee gas supply operations which will be paid for by the gas company.

National Grid's newly-made concessions bring about an abrupt end to their prolonged power-play, which not only affected residents and small businesses dealing with new construction, but also city agencies — with one project to construct a comfort station in Canarsie suffering a months-long delay after the gas company refused to provide a gas line.

State Attorney General Letitia James, whose office had been probing National Grid's questionable tactics, celebrated the deal as a win for New Yorkers.

“My office launched an investigation after hearing about the profound effect the moratorium has had on individuals, small businesses, and New York's economy,” said James. “As winter begins, New Yorkers can rest assured that National Grid's moratorium is finally over and the thousands of homeowners and businesses denied service will be able to turn their heat on.”

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AM New York

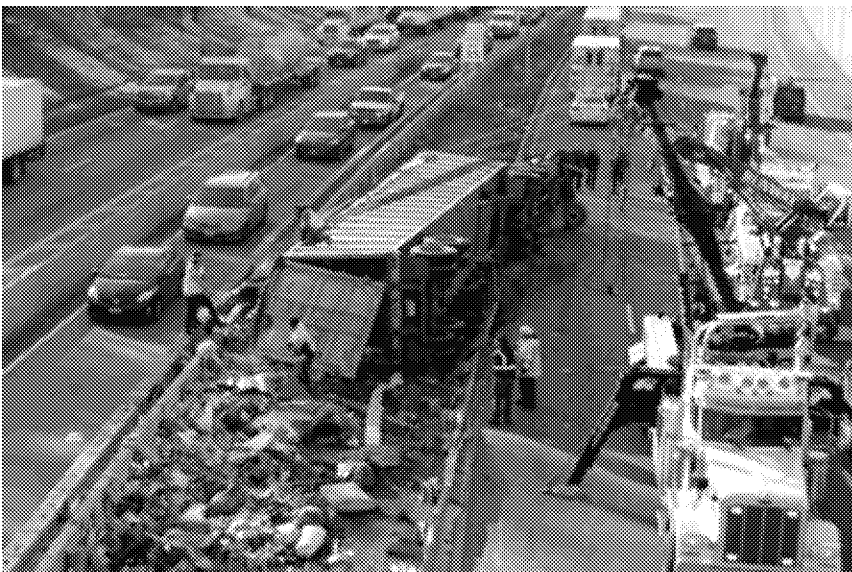
<https://www.amny.com/police-fire/brooklyn-truck-crashes-cause-rush-hour-nightmares/>

Brooklyn truck crashes cause rush hour nightmares

Several injuries were reported.

By Todd Maisel

November 25, 2019



The Gowanus Expressway was a mess for the morning rush hour when a tractor trailer hauling trash crashed at 7th Avenue, causing a massive pile up of three cars and a box truck. No serious injuries, but traffic was snarled. (Photo by Todd Maisel)

The Monday morning rush hour in Brooklyn was marred by separate tractor-trailer crashes that tied up traffic along several major roadways.

Several injuries were reported in a crash on the Gowanus Expressway just past Exit 19 (Seventh Avenue). None of the injuries are considered life-threatening.

Authorities said the crash occurred at about 5:57 a.m. when the tractor-trailer, which was being used to haul trash to a landfill, failed to properly navigate the ramp from the Staten Island-bound Gowanus towards the Verrazano Bridge, causing it to overturn. The truck then dumped its trash onto the roadway and center divider.

Three cars then struck the debris and caused a chain reaction crash with a box truck belonging to Brooklyn Bread, police said.

Firefighters and police rushed to the scene and took several people, including the driver of the truck, to NYU Langone Medical Center. None of the injuries was serious. Traffic on the Gowanus was brought to a standstill in both directions from New Jersey to Manhattan.

One sanitation official on scene said the driver of the tractor trailer was lucky.

“All he had was some scratches on his face,” the official said. “Look at that truck — how lucky can you get?”

Large tow trucks used cranes to upright the tractor-trailer as damaged cars were removed from the roadway. Sanitation trucks were lined up near the entrance ready to clean the highway as soon as the tractor-trailer could be removed and oil can be absorbed from the vehicle, police said.

The Seventh Avenue curve is notorious for trucks crashing because many drivers take the curve too fast and then overturn, officials said.

In an unrelated incident, a tractor-trailer struck the overpass elevated train station at 86th Street and 25th Avenue in Bensonhurst at about 8 a.m. Monday. The truck was carrying paper goods when it hit the overpass and split in half.

Police from the 62nd Precinct were on scene with a tow truck which remove the truck from under the overpass. Traffic in and around the area was backed up as crews unloaded goods from the damaged truck.

No injuries were reported in this incident.

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Bloomberg Environment

<https://news.bloombergenvironment.com/environment-and-energy/sherwin-williams-new-jersey-site-cleanup-may-cost-36-million>

Sherwin-Williams New Jersey Site Cleanup May Cost \$36 Million

By John Herzfeld

Nov. 25, 2019

- Latest cleanup plan adds to previous projects yielding \$14 million, \$1.4 million settlements

- Aimed at soil, sediment contamination, polluted water bodies

The latest stage of a broad cleanup of a former Sherwin-Williams Co. industrial site in New Jersey would cost \$36 million, the EPA said Nov. 25.

The Environmental Protection Agency set the cost estimate as part of a proposal to clean up contaminated soil and sediment at a Superfund site consisting of a former paint manufacturing plant and adjoining areas in Gibbsboro, N.J. An EPA study of the areas found pollution from lead, arsenic, and paint solvents.

The proposal is a follow-up to separate remediation projects that resulted in a \$14 million settlement with the company in 2017 and a subsequent \$2 million cost recovery action by the EPA that was settled earlier this year for \$1.4 million.

Those nearby properties, known as the Dump Site and the Burn Site, are sources of contaminated soil and sediment that have spread into residential properties and surrounding bodies of water, the agency said.

The latest cleanup stage, covering nearly 20 acres, will represent a major step toward meeting a longstanding community goal of cleaning up the waters of Hilliards Creek and Kirkwood Lake, EPA Regional Administrator Pete Lopez said in a statement. The area includes six residential properties, according to the agency.

Sherwin-Williams, in a statement, said it is committed to working with the agency to implement a remedy at the site “that is protective of human health and the environment” and that it is working cooperatively “to move remediation activities forward as quickly as possible.”

The plan calls for disposing of approximately 67,000 cubic yards of contaminated soil and backfilling the site with clean soil, plus excavation and removal of floodplain soil and sediment within Upper Hilliards Creek. Surface water will be monitored, and wetland areas will be restored with vegetation and soil similar to what was there before, the agency said.

Where paint solvents are present, the agency plan calls for treatment of harmful chemicals through subsurface processes, along with systems to collect and treat gases from the soil.

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St. Croix Source

<https://stcroixsource.com/2019/11/25/stx-central-high-to-reopen-after-thanksgiving-break/>

STX Central High to Reopen After Thanksgiving Break

November 25, 2019

St. Croix Central High School will reopen and resume normal operations on Monday, Dec. 2, following more than a week of disruptions caused by a mystery odor that prompted complaints and physical reactions from students and faculty.

The V.I. Department of Education took a series of actions including five days of air quality monitoring by the Environmental Protection Agency, the department announced in a news release issued Monday.

In an effort to provide stakeholder groups the opportunity to experience the Central High campus since mitigation efforts began on Nov. 16, Education officials hosted an extensive walkthrough of the campus Monday with parents, teachers, lawmakers, Board of Education members and union representatives in attendance. There, David Rosoff, on-scene coordinator with the EPA, confirmed that his agency’s monitoring of the campus has yielded no presence of harmful gas emissions.

“So far, since we have been here since Thursday afternoon, we have not seen any levels of hydrogen sulfide, sulfur dioxide, hydrogen cyanide – those are the main components that would react – on campus that would cause any concerns at all,” he said.

However, Rosoff said the EPA had begun talks with the nearby Limetree Bay Terminals, which expects to begin refining oil early next year under the name Limetree Bay Refining LLC, to determine if the noxious odor that caused students and staff to experience symptoms of vomiting and headaches on Nov. 12, 13 and 18 might be originating from the plant.

The Department of Education, in conjunction with partner agencies, had completed a series of mitigation actions prior to the EPA’s arrival on the Central High campus on Nov. 21. Blocked sewage lines identified on and near the campus were cleared and deodorized and damaged manholes underwent minor repairs, the news release said.

Participants on Monday’s campus walkthrough noted an area of the campus that had experienced oil spillage from heavy equipment brought on the campus on Nov. 16 to clear the clogged sewer lines. It was still giving off a gaseous odor after two previous cleanings. On the advice of environmentalists from the Department of Planning and Natural Resources, the affected soil and concrete were unearthed, properly disposed of and resurfaced with fresh materials.

Department of Health officials will hold informational sessions on the Central High campus on Monday, Dec. 2, to reassure students and staff, and answer any questions they might have. Government agencies will be on hand to provide support as needed.

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E&E News

<https://www.eenews.net/stories/1061638027>

NYC: Climate liability case isn't about curbing emissions

By Jennifer Hijazi

November 25, 2019

Lawyers for New York City last week told a court that the Big Apple is not trying to step on federal regulators' toes with its climate liability lawsuit against Chevron Corp. and other oil firms.

During oral arguments Friday, attorney John Moore faced a panel of federal judges who at times seemed skeptical of his case that New York City isn't trying to get companies to halt oil production but to pay for the local damages of climate change, a phenomenon exacerbated by their products.

Regulation of greenhouse gas emissions — a job for federal legislators — isn't the end goal, Moore told three judges for the 2nd U.S. Circuit Court of Appeals.

"Here, the effect of a judgement for the city is not to impose any particular standard of conduct on the defendants or on anyone else," he said. "Rather, the effect is to require the defendants to internalize the costs of their products that they have thus far been able to pass off onto others."

A ruling by the 2nd Circuit in New York City's favor, Moore said, does not necessarily require oil companies to halt greenhouse gas emissions. He said oil majors could accept reduced profits or raise the price of crude.

Gibson, Dunn & Crutcher LLP attorney Theodore Boutrous, who represented Chevron, said New York City's allegations are worldwide concerns that shouldn't be decided by a court. He said the city is attempting to apply "unprecedented, sweeping, interstate, international" liability that would impose New York laws across the globe.

"The city wants to regulate the oil production activities of these companies all around the world and regulate the emissions that result from the use of the products," he said.

In order to escape liability for damage caused by climate change, companies would be forced to control emissions, Boutrous said.

After hearing Chevron's arguments, the judges — Carter appointee Amalya Lyle Kearse, a senior judge, and Trump picks Richard Sullivan and Michael Park — seemed keen for Moore to explain how New York's case wasn't about regulating greenhouse gases.

Moore answered that the oil industry's knowledge of "catastrophic" climate consequences stemming from the use of its products is the key issue. Instead of mitigating the damage, companies "doubled down" on production, he said.

U.S. District Court for the Southern District of New York Judge John Keenan last year tossed the city's original case, which raised complaints about public and private nuisance and trespass.

Keenan, a Reagan appointee, said the state law claims were not applicable to the case, which he said raised uniquely federal questions that are trumped by the Clean Air Act.

Judge William Alsup, a Clinton appointee to the U.S. District Court of the District of Northern California, dismissed lawsuits from San Francisco and Oakland on similar grounds.

Other municipalities seeking compensation for climate change impacts initially filed their lawsuits in state courts and have succeeded in jurisdictional fights against oil industry attorneys who say the disputes belong in federal venues where the Clean Air Act reigns.

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New Jersey Advance Media

<https://www.nj.com/news/2019/11/as-floods-and-wildfires-intensify-pollution-could-spread-from-njs-most-toxic-sites.html>

As floods and wildfires intensify, pollution could spread from N.J.'s most toxic sites

November 25, 2019

As flooding and wildfires intensify across the country, New Jersey — which contains more toxic Superfund sites than any other state — is at the heart of a potential contamination crisis, according to [a new report from the federal government](#).

The U.S. Government Accountability Office found that 945 of the nation's 1,571 Superfund sites, about 60%, are increasingly threatened by either flooding or wildfires. The report, released last week, was requested by a group of federal lawmakers, including New Jersey Senator Cory Booker.

The fear is that future natural disasters, bolstered by climate change, could damage the facilities that have been designed to keep pollution trapped at those sites, spreading the contamination into surrounding areas.

Of the Garden State's 141 Superfund sites, including those which are now considered remediated, 122 face either significant flood risk or high wildfire potential, according to the report. Some sites, like the Price Landfill in Pleasantville, are threatened by both water and flames.

Flooding

Climate change has intensified tropical storm systems, increasing the risk that future storms will bring flooding on the level of 2011's Hurricane Irene or 2012's Superstorm Sandy.

There are 27 Superfund sites in New Jersey that could be flooded by storm surge during a Category 1 hurricane, according to the report. Another 15 are threatened by Category 4 or Category 5 storms.

The American Cyanamid site in Bridgewater was used by the GAO as a prime example of this problem. The site is the former home of a chemical manufacturing operation and has left behind a legacy of pollution dating back to 1915.

Cleanup of the site is ongoing, but much of the remaining pollution sits in two waste disposal pools on the site, near the Raritan River. Today, a pump-and-treat system prevents groundwater at the site, which is contaminated with cancer-causing benzene and other pollutants, from seeping into the river.

Irene flooded American Cyanamid in 2011, causing a loss of power and damage to a flood control berm at the site. According to the report, the U.S. Environmental Protection Agency has taken steps since Irene to make the site more resilient to future flooding.

The EPA concluded that Irene's damage did not cause any significant release of toxic substances from the site into the surrounding environment. But the GAO report still uses the incident as an example of how a natural disaster could cause Superfund sites to threaten nearby areas.

Future flooding will come steadily, as sea levels continue to rise. New Jersey experiences sea level rise at a faster rate than the global average, thanks to sinking land in the southern part of the state.

There are 29 Superfund sites in New Jersey that face serious flood risks at various stages of sea level rise, according to the GAO report; 15 of those are places at risk even with less than a foot of higher waters.

Wildfire

The threat of wildfire is growing in New Jersey, too — particularly in the Pinelands — as climate change brings more wind and snow, which spurs the growth of underbrush that serves as fuel to the flames. Warmer average temperatures also allow invasive pests to move into the forests, leading to more dead trees on the forest floor waiting to burn.

There are 80 Superfund sites in New Jersey that are located in areas of high wildfire hazard potential, according to the GAO report. That includes not just sites in the Pinelands — where most of New Jersey's wildfires occur — or in the forests of North Jersey, but also to urban areas like Elizabeth, Kearny and Jersey City.

Lacking action

Beyond laying out the climate threats facing Superfund sites, the GAO report also examines how the EPA acts to deal with the problem.

The report concludes that the EPA takes some steps to protect the toxic areas from these climate risks, like identifying, monitoring and communicating about the threats.

But the GAO reports that more could be done. Specifically, the report found that the EPA is not doing enough to fully assess and respond to the threats that climate change poses to Superfund sites.

In the EPA's response to the GAO report, Peter Wright, who oversees the Superfund program, wrote that the agency recognizes the importance of making sure the polluted sites are resilient to "extreme weather events" and that the agency believes it is already handling the threats adequately.

According to Wright, more than 250 Superfund sites were affected by extreme weather in 2017 and 2018 and none of them showed signs of releasing their pollutants.

Jeff Tittel, the director of the New Jersey Sierra Club and a frequent critic of the EPA's Superfund cleanup work, called the report "an alarm bell" for New Jersey.

"We have more Superfund sites than any other state, and we are one of the states most impacted by climate change and sea-level rise," Tittel said. "Many of our Superfund sites are near the coast or on streams, rivers, and bays. This is alarming because it means that when these sites flood, they will wash all kinds of toxic chemicals into streams, rivers, and even homes. Storm surges will carry a hazardous witches brew of toxic chemicals."

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Newsday

<https://www.newsday.com/long-island/suffolk/suffolk-county-water-authority-fee-1.38803930>

Suffolk County Water Authority customers to pay extra \$80 per year

By David M. Schwartz

November 25, 2019

Suffolk County Water Authority customers will have to pay an extra \$80 per year for treatment of soon-to-be regulated contaminants, including 1,4-dioxane, starting January 1.

The fee, passed by the water authority board on Thursday, will raise \$177 million over the next five and a half years through a quarterly charge on bills for 395,000 residential and commercial customers.

New York State has proposed new drinking water standards for three new chemicals, the first in 20 years. Water providers have warned of steep costs — an estimated \$840 million Islandwide for 1,4-dioxane alone — and difficulty in getting enough treatment systems up and running.

The Suffolk County Water Authority, which serves 1.2 million people, has been working to prepare for treatment systems at 76 sites where contamination is at or above half of the proposed standard.

"We've been moving as fast as we can with getting treatment in place," said Suffolk County Water Authority president Jeffrey Szabo. "We've been taking from the existing overall budget to pay for the costs. Now that the state is essentially ready to set [a] new standard, it's entirely appropriate to set a new fee so that it can be paid for."

In Nassau County, water districts have also looked at raising rates. Some have warned that if the state doesn't give them more time to meet the standard, they'd take dramatic conservation measures, including bans on lawn irrigation and filling swimming pools, rather than serve customers water that violates state standards. Hicksville Water District has already issued a moratorium on new residential and commercial water connections.

Other advocates and state lawmakers have suggested turning to New York City's upstate water supply, which studies have found to be less contaminated, to meet some of Long Island's demands.

While the state Department of Health has yet to release its final regulation, the Suffolk County Water Authority said it expects the treatment costs to be necessary.

1,4-dioxane is a stabilizer in solvents associated with manufacturing, which is also found in cosmetics and household products. The EPA lists it as a likely carcinogen, and it has been associated with liver and kidney

damage. The other two contaminants being regulated are perfluorooctane sulfonate (PFOS), found in firefighting foams, and perfluorooctanoic acid (PFOA), found in nonstick and stain-resistant products.

Szabo said 56 wells have contamination of 1,4-dioxane at least half of the state standard, which is when the district starts treating for contaminants.

Another 20 wells have contamination of PFOS and PFOA, which are part of a classification of chemicals known as PFAS that has been getting increasing scrutiny from national lawmakers and regulators. The International Agency for Research on Cancer, which is part of the World Health Organization, lists it as a possible carcinogen.

1,4-dioxane has been the major concern for Long Island water regulators because of how difficult it is to remove and how prevalent it is in groundwater here, at some of the highest drinking water concentrations in the nation.

The state has only approved two treatment systems on Long Island. The state has estimated that 89 systems will be necessary to treat to their proposed standard of 1 part per billion, 82 of which are on Long Island.

The Hicksville Water District's moratorium on water connections will effectively prevent new development there, while the Bethpage Water District passed a ban on nonessential water use, including watering lawns and filling swimming pools, that would go into effect once the state starts enforcing new drinking water standards.

The New York State Department of Health issued draft regulations earlier this year, and has previously said it was reviewing almost 5,000 public comments about the standards. Environmental and health advocates said that the state's proposed standards aren't protective enough of public health.

At least 26 Long Island water providers and governments have filed lawsuits in Eastern District federal court against 1,4-dioxane manufacturers and distributors seeking to recover costs for cleanup and contamination. Some, including Suffolk County Water Authority, have filed suit over the PFOA and PFOS contamination.

Szabo said it would take years to recover money from the lawsuits. While the initial \$177 million price tag would cover initial capital costs — including giant tanks of crushed carbon and systems with dozens of ultraviolet lights — the fee would be ongoing to cover the \$20 million per year cost to operate and maintain them.

The water authority board voted 5-0 on Thursday night at the meeting at its offices in Oakdale.

Timothy Hopkins, general counsel for Suffolk County Water Authority, said the authority instituted a flat fee per customer instead of based on usage because they were looking for a stable revenue source.

"We know how much we have to spend to put treatment systems in," he said. "We have to make sure we have a steady stream of revenue."

The state Department of Health is continuing to review comments. The state has earmarked \$200 million for water providers to manage emerging contaminants to "help ensure cost is not a barrier to protecting public health and the environment," spokeswoman Erin Silk wrote in a statement.

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The Jersey Journal

<https://www.nj.com/hudson/2019/11/could-hoffa-be-buried-in-the-former-pjp-landfill-in-jersey-city.html>

Could Hoffa be buried in the former PJP Landfill in Jersey City?

By Steven Rodas

November 25, 2019

Could the 40-plus year search for Jimmy Hoffa end in, of all places, Jersey City?

According to evidence reportedly uncovered by Washington, D.C.,-based author Dan Moldea, the answer is yes.

Forty-four years after the famed Teamsters boss disappeared in metro Detroit, Moldea – who wrote “The Hoffa Wars” in 1978 – claimed last week that new leads place Hoffa’s body under a 53-acre area in Jersey City that previously served as the PJP Landfill.

Bordered by the Hackensack River and directly beneath the Pulaski Skyway, the site has also been called “Brother Moscato’s Dump.” On a rainy Sunday morning, the area - which is partly made up of warehouses and parkland - was quiet with not even trucks making deliveries.

“I think this is just getting attention because of ‘The Irishman,’” former Jersey City Mayor Gerry McCann told The Jersey Journal. “I’ve heard a bunch of theories – one even saying that Hoffa was buried in The Meadowlands. But as far as I know he was killed in Detroit and incinerated. Why would they bring him all the way to New Jersey afterward?”

In Martin Scorsese’s “The Irishman,” Hoffa, who’s played by Al Pacino, is killed by (spoiler alert!) Robert De Niro’s Frank “The Irishman” Sheeran. But none of that came as a surprise to McCann, who is up to date on the topic, including having read Charles Brandt’s “I Heard You Paint Houses.”

According to an op-ed written for Fox News, Moldea gained his latest insights from Frank Cappola, whose father, Paul Cappola, recounted Hoffa’s final resting place while on his deathbed in 2008. The elder Cappola ran the dump at the time of Hoffa’s disappearance.

“I’ve never seen a lead this good for Hoffa’s body,” Moldea said in the editorial. “I’ve been on six of these [digs] myself, and I’ve come away from all of them disappointed. But nothing was even in the same universe as this.”

Robert Tyminski, a Manhattan resident visiting Jersey City, said he doesn’t believe the rumor.

“He’s about as buried in Jersey City as I am,” he said, laughing. “No, he’s not here. Nobody knows where the hell he’s buried, and I don’t think they’ll find out. They’re just taking shots. He could be buried under the Empire State Building for all we know.”

Hoffa disappeared on July 30, 1975 in Bloomfield Hills near Detroit. One of the most controversial labor organizers of his time, Hoffa served as president of the International Brotherhood of Teamsters from 1957 to 1971.

Jersey City Mayor Steve Fulop speculated, “As history would have it, all roads leads back to Jersey City at some point in life - this is true even for Jimmy Hoffa.”

Per a signed and sworn affidavit that detailed his father’s version of events by Moldea earlier this year, after Hoffa was killed in Detroit his body was placed in a drum, loaded onto a truck and driven to New Jersey.

FBI officials did not respond for comment, but Detroit FBI spokeswoman Mara Schneider told The Detroit Free Press that the agency has taken note of the claim he’s in Jersey City and would assist if new evidence surfaces.

“If the FBI is able to develop credible information about Mr. Hoffa’s whereabouts, we are willing to take the necessary steps to find him,” Schneider said in an email to the newspaper.

Moldea is also critical of Scorsese’s film, which opened in theaters earlier this month and will be on Netflix starting this week, calling it “great-cinema-but-bad-history film fantasy.”

McCann began serving as Jersey City mayor in 1981 and stands as the third-youngest elected mayor in the city's history. He said he successfully sued the Roman Catholic Archdiocese of Newark over the landfill – claiming in court that it was being improperly run and could prove a danger to nearby residents.

In September 1983, the United States Environmental Protection Agency designated the site to the Superfund National Priorities List after hazardous chemicals were found in the soil and groundwater.

The landfill was the site of a major underground fire for years before a Texas oil fire-fighting firm was hired and was able to extinguish it. The fire caused health problems for residents of a nearby housing development.

But as far as bodies on the grounds, McCann said, "I just don't think it's possible. We cleaned up the site and I feel we would have turned something up."

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NATIONAL

Inside EPA: White House 'Bioeconomy' Effort Raises Policy, Technology Questions

<https://insideepa.com/environment-next-news/white-house-%E2%80%98bioeconomy%E2%80%99-effort-raises-policy-technology-questions>

November 25, 2019

The White House's recent "bioeconomy" summit highlights that the Trump administration is prioritizing research into using biology and genetic sciences to create business opportunities from biomass, raising questions about the policy and technology implications of the push.

In a [summary of last month's event](#), the White House Office of Science Technology and Policy (OSTP) characterized it as "the first gathering at The White House of our Nation's foremost bioeconomy experts, Federal officials, and industry leaders to discuss U.S. bioeconomy leadership, challenges, and opportunities."

OSTP says the bioeconomy has a "critical role in the Industries of the Future" and notes it is an administration research and development priority. In a [recent Federal Register notice](#) the administration attempted to get answers to some of the questions about the bioeconomy, seeking input through Oct. 22 from businesses and other stakeholders on "notable gaps, vulnerabilities, and areas to promote and protect in the U.S. Bioeconomy that may benefit from Federal government attention."

The federal attention already focused on the bioeconomy includes efforts by EPA, the Department of Agriculture (USDA), and Food and Drug Administration (FDA) to "streamline" biotechnology regulations. Early on, EPA focused on regulating genetically engineered pesticides, but in recent years has received and processed an increasing number of Microbial Commercial Activity Notices under the Toxic Substances Control Act.

The growing number of new biotech products could raise questions for regulators to address in the coming years as they grapple with the products' implications. A 2017 National Academy of Sciences (NAS) report on "Preparing for Future Products of Biotechnology" cautioned that rapidly introduced bioengineered products over the next 5-10 years "have the potential to critically stress the regulatory agencies, both in terms of capacity and expertise."

A 2019 NAS report, "Forest Health and Biotechnology Possibilities and Considerations," also called on regulatory agencies to "explore ways to incorporate into their regulatory oversight responsibilities the ability to assess the impact on ecosystem services of both biotech and non-biotech products developed for improving forest health."

And a 2012 “National Bioeconomy Blueprint” issued by the Obama White House also stated that the bioeconomy had emerged as an administration priority because of its large and growing potential as a new driver of innovation and economic growth. In 2015, the Obama OSTP also launched an initiative “to modernize the U.S. regulatory system for biotechnology products.” On Jan. 4, 2017, the Obama White House posted a blog presenting a final “Update to the Coordinated Framework for the Regulation of Biotechnology,” first published in 1992.

‘Unmatched’ Potential

Mary Maxon, the Associate Laboratory Director for Biosciences at the Lawrence Berkeley National Laboratory and the principal author of the Obama blueprint, agrees with the industry trade group Biotechnology Innovation Organization (BIO) that the bioeconomy has “unmatched” potential. At the Oct. 7 OSTP summit, which she attended, there were talks on promoting and protecting the bioeconomy, given its possibilities for positive and negative uses.

The basic policy-related needs for the bioeconomy include better measuring its size, Maxon tells Environment Next, noting that better measurement is one task of an ongoing NAS study, “Safeguarding the Bioeconomy.”

According to expert Rob Carlson, an entrepreneur who created the Bioeconomy Capital dashboard software, the 2017 estimated U.S. biotechnology revenues from genetically modified organisms (GMOs) were “at least \$388 billion, or 2% of GDP,” including \$92 billion for biochemicals. But, Maxon notes, the whole biotech industry is much larger than Carlson’s estimate because revenues, while a good indicator of the bioeconomy’s size, it not the only one. [BIO in comments to OSTP’s request](#) for information says, “The bioscience industry’s economic impact on the U.S. economy, as measured by overall output, totaled \$2 trillion in 2016 alone.”

Maxon cites the important manufacturing chemical 1,3-Propanediol, found in composites, adhesives, and many other uses, as an example of how some of the bioeconomy’s economic contribution is being missed. If 1,3-Propanediol is biomanufactured using biomass carbon feedstocks rather than traditionally manufactured using chemical methods and petroleum feedstocks, it produces the exact same quality product, but currently the North American Industry Classification System (NAICS) -- which is used to measure the economy -- has no NAICS code for renewable biomass feedstocks, such as 1,3-Propanediol.

Formerly, crops and seeds from GMOs were the biggest revenue source in the bioeconomy according to Carlson’s accounting, and pharmaceutical “biologics” was the smallest, says Maxon, while the fastest growing biotech sector now is industrial biotechnology. That sector uses genetically modified organisms for many products, such as enzymes for laundry detergent. With the breakthrough gene-editing technique called CRISPR, which allows rapid and easy gene modifications, the possibilities for bio-manufacturing in new ways have opened exponentially.

Bio-Based Manufacturing

Maxon, who was a panelist at [the Oct. 1-3 GreenTech conference](#) in Seattle, described the huge environmental sustainability potential of bio-based manufacturing technologies, including bio-based 1,3-Propanediol’s lower greenhouse gas emissions, decreased energy intensity, and reduced hazardous waste generation. Biomanufactured foods to feed a growing population, with reduced environmental impacts, is another significant benefit.

The GHG reduction potential of bio-based products is significant. BIO’s comments to OSTP state that since the passage of the renewable fuel standard in 2005, “the production of low-carbon, sustainable biofuels have reduced greenhouse gas emissions in the transportation sector by 600 million metric tons (MMT), while the development of renewable chemicals and bio-based products removed 12 MMT of CO2 from the manufacturing sector in 2016 alone.”

Biosensors are another area where biotech has applications, such as using modified organisms as biosensors to monitor ecosystem health or detect arsenic in water supplies and pathogens in food. Harvard researchers have

programmed plants to detect a hormone and emit a fluorescent “signal” when they do so, a concept that could be applied to biosensors for toxic gases and other applications.

Especially challenging policy issues have arisen because of gene drives, a genetic engineering technology that can modify particular genes throughout a population of organisms under a process called “open release.” A number of genetically modified insects have been developed that can control pests by releasing genetically sterilized individuals into the environment to breed with the wild population and thereby eradicate the target organism.

But with open release of organisms bearing gene drive modifications, new challenges have arisen because it is ambiguous whether the USDA, the FDA, or EPA has regulatory responsibility, so as the technology has evolved the agencies have had to figure out how to work together, Maxon says. “That has been a pretty important part of our evolving regulatory system.”

Scientific Challenges

Gene-driven genetic changes also raise new scientific challenges. While driving disease-carrying mosquitoes or invasive carp to extinction provides a specific benefit, getting rid of the pests can impact entire ecosystems that have adapted to their presence. “The environmental repercussions of some of these things are unknown,” Maxon says, but extensive efforts are being pursued to help the U.S. regulatory system prepare for open release of biotech products.

With data from decades of growing genetically modified corn, it is now well-understood as a “familiar and noncomplex” biotechnology. But developers are interested in developing “consortia of genetically modified microorganisms working together” to reduce the need for extra fertilizer on crops; if effective and introduced into commerce, that technology would be a game-changer, Maxon says.

Currently, any biotech involving open release is problematic because there is no precedent, presenting regulators with “unfamiliar and complex” issues for which no risk assessment pathways have been tested. For that reason, genetically modified salmon took about 20 years for approval. Risk assessment pathways for unfamiliar, complex biotechnologies are the greatest challenge, Maxon says. Regulatory agencies need to be better at scanning the horizon, for example, by attending meetings of government-funded researchers in synthetic biology who are forecasting what is coming and by engaging with companies early.

Challenges notwithstanding, “a circular bioeconomy” that takes waste into its supply chain in the form of renewable carbon is one that the United States “could be proud of,” Maxon says, and suggests that the country should be bold in pursuing bio-based strategies, as Europe is doing with bio-based plastics. -- David Clarke

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Inside EPA: States Seek To Influence EPA’s Reformulation Of RCRA Grants’ Allocation

<https://insideepa.com/daily-news/states-seek-influence-epa%E2%80%99s-reformulation-rcra-grants%E2%80%99-allocation>

November 25, 2019

State regulators are seeking to influence EPA’s reconfiguration of its method for allocating Resource Conservation & Recovery Act (RCRA) hazardous waste grants, including asking the agency to phase in the funding changes, consider states’ implementation of new federal rules in determining allocations, and other recommendations.

In a [recent letter](#) to EPA waste chief Peter Wright, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) says its board of directors is recommending “broad concepts” to the

agency as it reassesses the Resource Conservation & Recovery Act (RCRA) State and Tribal Assistance Grant (STAG) allocation formula. The letter also indicates EPA's Office of Resource Conservation and Recovery has been discussing the reallocation with ASTSWMO, and asks to continue that dialogue.

The agency plans to issue a new allocation formula for the RCRA STAGs early next year, applying it in fiscal year 2021, said EPA staff during a breakout session at ASTSWMO's Oct. 31 annual meeting in Washington, D.C.

"We have been talking with ASTSWMO all along," Sonya Sasseville, director of the Program Implementation and Information Division within EPA's Office of Resource Conservation & Recovery (ORCR), said during the breakout session. She noted the agency's receipt of ASTSWMO's letter and said it has been helpful, indicating an interest in more discussions to flesh out the group's request.

EPA in FY19 began revising the state allocation formula it uses for its Hazardous Waste Financial Assistance Grants, according to EPA's FY20 budget justification. The grants aid states in implementing RCRA, it says. In the revamping of the allocation formula, the agency "will pursue appropriate updates, including using the most recent data, to better align cooperative agreement funding to state needs, maximizing the environmental benefits and program performance of this funding," the justification says.

"For the most part, we're looking at the data universes that go into the formula. That's the main task," said an EPA staffer who is helping to lead an EPA grant reallocation workgroup, during the breakout session.

ORCR Director Barnes Johnson said during the breakout session that in looking at workload distribution in states, likely one of the most significant shifts in funding distribution has been from corrective action and permitting to enforcement.

And the EPA staffer said that for five program areas the agency received data on, it looks like a 9 percent shift from permitting to enforcement.

Paula Bansch, with the Indiana Department of Environmental Management and the breakout session's moderator, added that states are putting a little more funding toward inspections, and less toward permitting.

In FY18 and FY19, Congress appropriated just under \$100 million annually for the hazardous waste STAG, while President Donald Trump in his FY20 budget sought to cut that back to \$66.4 million.

ASTWMO's Recommendations

In the Oct. 30 letter to EPA, ATSWMO's board lays out several overall concepts for the agency to consider in its STAG allocation discussions.

These include: that EPA should only base allocations on core program elements, such as inspections, enforcement, permitting, cleanup and program development; that the agency should consider the resources needed for maintaining permits once initial permits and renewals have been issued; and that EPA should give consideration to implementation of new rules, such as EPA's definition of solid waste, generator improvement, electronic-manifest (e-Manifest) and pharmaceutical waste rules.

Further, the board advises EPA to phase-in the revised allocation adjustments over at least a two-year period "in order to give States adequate time to absorb funding changes."

The states also say "[t]he universes utilized to support the allocation formula should be current and applicable to core program activities."

For instance, the letter cites concerns among states over the accuracy of EPA's ability to determine the number of small quantity generators (SQGs) in each state, and also notes that the 2017 biennial report data is unlikely to be an accurate representation of the large quantity generator (LQG) universe now that the agency's pharmaceutical rule has been finalized. That is because since the last STAG allocation update, many retail pharmacies re-notified as LQGs, but the pharmaceutical rule -- released this past February -- "will eventually

result in many of those pharmacies re-notifying back to a lesser generator category,” such as an SQG, the letter says.

Therefore, EPA should weigh subtracting out retail pharmacies from the most recent biennial report data it uses for the reallocations, ASTSWMO says. “This approach would eliminate potentially significant shifts in STAG funding that is not reflective of actual workload,” it says.

On inspections, the group expresses some concern over the accuracy of certain assumptions EPA made during the last STAG formula update on the number of SQGs in each state. At the same time, ASTSWO says that states have a growing concern that “the LQG universe is not necessarily where more inspection efforts are needed, as today’s LQG’s tend to have a greater understanding of the RCRA rules and a more mature compliance program.

“Many States tend to see more violations with direct impacts to the environment at SQGs,” it says. “With the implementation of the re-notification requirements of the Generator Improvements Rule, better data on the SQG universe will be available for consideration in future STAG allocations.”

ASTSWMO also notes that it believes EPA, as part of its formula update, intends to identify the universe of permitted facilities via its “Current Permit Renewals Workload Report,” which will “represent a significant shift in the number of facilities identified from the previous STAG.” It asks the agency to compare, either region by region or state by state, this permitting universe with that in the previous STAG before it makes a decision on this issue.

The states also ask EPA to consider the number of facilities using an alternative mechanism in lieu of a permit, which is not captured by the permit renewals report.

ASTSWMO also raises concerns about EPA relying on the 2020 RCRA corrective action universe. In 2009, the agency created a 2020 corrective action baseline, representing 3,746 facilities where EPA and states were to focus attention, setting an “aspirational goal” of having 95 percent of those corrective actions complete by 2020, according to EPA’s website.

“Utilization of the 2020 universe offers many of the same concerns identified from the last STAG with regard to the accuracy of the universe and its use in representing the corrective action workload going forward,” ASTSWMO says, explaining that much of the work is finished at these facilities, “or remains in a different form, such as long-term stewardship.” Further, some states have shifted their workload to also include non-2020 facilities.

“As we look beyond 2020 and develop a new corrective action portfolio, there will be an additional workload not captured by the 2020 universe utilized for the previous STAG,” it says. -- Suzanne Yohannan (syohannan@iwpnews.com)

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USA Today: Trump EPA's cynical 'transparency' ploy would set back pollution science and public health

<https://www.usatoday.com/story/opinion/2019/11/25/trump-epa-science-limits-would-increase-pollution-deaths-column/4192039002/>

M. Granger Morgan, Opinion contributor Published 4:00 a.m. ET Nov. 25, 2019

We all favor 'transparency,' but underlying medical data from many studies cannot be made public. That would be illegal under federal privacy laws.

In a proposed rule published over a year ago, the Environmental Protection Agency indicated that in the future, when computing how pollution causes health damages, EPA would only be willing to use scientific results from studies where all the underlying data could be made public. Hundreds of leading scientists sent comments explaining in technical detail why doing that would be a very bad idea — and would preclude the use of some of the best science in setting environmental standards.

This month it began to look like the EPA may be blowing off all that scientific advice. In a revised proposed rule obtained by The New York Times, not only did the agency appear to ignore all the scientific advice it had received, it proposed to apply this approach in setting standards for all areas of pollution control and to go back and use it to reassess past standards. Doing that would be a bold and unconscionable political move to dramatically loosen a large number of standards that over the past several decades have been making America's air and water safer for all of us.

Health records vital to research

Very, very small particles in our air are killing thousands of Americans every year. These invisible submicron killer particles are less than .00004 of an inch in diameter. We are unaware as we breathe them in, but they are so small that they can pass deep into our lungs where they lodge and over the years cause heart, respiratory and other diseases that kill us years earlier than we would die if we were not breathing them. Research by my colleagues and others shows that each year, at least 75,000 and perhaps as many as 100,000 of us will not live to fully enjoy watching our children and grandchildren grow up.

How do we know this? The answer is through years of good careful science that combines measurements of air pollution with sophisticated statistical analysis of health records. Many of those health records are for individual people, so when they have done their studies scientists have taken care to get proper permission to use the data, while guaranteeing that the privacy of the people whose records they have used will be protected.

Because the results that show early deaths are so striking, over the years there have been a number of independent assessments in which groups like the non-profit Health Effects Institute have gotten protected access to these sensitive data so they could check the analysis. These independent studies have confirmed the results.

Most submicron particles are created in the atmosphere by chemical reactions among a variety of common air pollutants. To protect people's health from this invisible killer, we need to control those pollutants. Over the last few decades, the United States has been making excellent progress in doing that.

Reducing air pollutants is far cheaper than caring for all the health damage caused by small submicron particles. But the cost of pollution control is obvious, while the link between air pollution and health damages is not visible for all of us to see. For years there have been people who have been attacking the science because they didn't want to spend money on air pollution control. To roll back controls, they have chosen to attack the science.

Pitting science against transparency

Because they know we all favor "transparency," they have adopted a cynical strategy — forbid the use of any science in setting standards that is not open and transparent. I say "a cynical strategy" because these people know that, because of privacy, the underlying personal medical data from many studies cannot be made public. Doing that would be illegal under federal medical privacy law.

In the past, environmental protection has not been a partisan issue. EPA was created by a Republican president, Richard Nixon. When I was chair of EPA's Science Advisory Board during Republican President George W. Bush's administration, the agency cared deeply about getting the science right.

It is time to call a halt to ignoring science in the interests of serving the political and economic interests of a few at the expense of the health of all Americans. It is time to return to a bipartisan approach to environmental protection that is based on the best science.

Salon: How EPA director Andrew Wheeler is using scientific transparency as a weapon

<https://www.salon.com/2019/11/24/how-epa-director-andrew-wheeler-is-using-scientific-transparency-as-a-weapon/>

Wheeler understands how transparency, an important scientific principle, can be misused to undermine regulation

[David Michaels](#) • [Bernard D. Goldstein](#)

November 25, 2019 12:30AM (UTC)

The tobacco industry may have been the first to recognize that [requiring transparency in scientific research could serve as a weapon](#) to defend a dangerous product, but it appears that Environmental Protection Agency (EPA) Administrator Andrew Wheeler will soon issue [regulation](#) that will make it national policy. Unless he is stopped, the EPA's ability to protect the public's health and environment will be badly damaged.

Decades ago, when studies started to show that smoking killed not only smokers but also the non-smoking spouses of smokers, Big Tobacco recognized the government would use this evidence to reduce smoking.

In response, the tobacco industry [demanded access to the raw data](#) of these studies. Getting to the truth wasn't tobacco's objective. The cigarette manufacturers hired mercenary scientists to [massage the numbers and manufacture doubt](#) about the results.

Big Tobacco turned transparency, an important scientific principle, into a weapon.

The strategy worked for tobacco for years, helping to delay regulation and increase the death toll from smoking-related illness. Since then, polluters and manufacturers of deadly products have followed Big Tobacco's playbook, promoting policies that would prohibit EPA from using the findings of any study unless the raw data, computer codes, and virtually everything used by scientists to conduct the study are provided to the agency and posted on the agency's website in a ["manner sufficient for validation and analysis."](#)

To justify this, these opponents of public health protections invoke a caricature of how science really works. While in theory most studies could be reproduced, they rarely are because it is a waste of resources. The scientific enterprise involves approaching the same question in different ways to determine if the results support each other. Reanalyzing the same study over and over is little different from checking on a surprising newspaper article by buying additional copies of the same paper to see if it says the same thing. Some of the findings that industry most wants to bury have been repeated in countries throughout the world, including ones on [the health effects of particulates produced by burning fossil fuels](#). It is unlikely that Canadian or European scientists would turn over their raw data to a US agency.

In the face of opposition from virtually the entire scientific community, Administrator Wheeler is about to issue a regulation embracing the tobacco industry's strategy, [prohibiting EPA from using scientific studies as evidence unless the agency receives a tremendous amount of raw material from the studies' authors](#). EPA has acknowledged that restriction would [drastically decrease the number of studies](#) the agency would rely upon in future regulations.

Certainly, calls for transparency and reproducibility sound reasonable, but exposing poorly conducted studies is not [what this effort is about](#). Instead, it is designed to impose onerous and burdensome requirements on independent researchers, and would result in much environmental health science, particularly epidemiologic studies, being excluded from the evidence base and becoming irrelevant to efforts by EPA to protect the public and the environment. Valuable research findings in areas like climate change, lead exposure and particulate

pollution would be ignored. And because important studies on disasters like the Deepwater Horizon or Chernobyl are, fortunately, not reproducible — would they be discarded, too?

If this regulation is promulgated, human studies could only be used only if researchers surrender confidential data (including personally identifiable information, trade secrets and commercial and financial information) that, in many cases, the investigators had promised would never be released. This would clearly be unacceptable to many of our nation's most prominent researchers.

Administrator Wheeler's efforts must be seen as another component of his plan to exclude independent science and scientists from EPA's deliberations, promoting the interests of polluters. Previously, the agency decreed EPA-funded scientists cannot serve on the committees which provide the Agency with scientific advice. Many of the country's leading environmental health experts were dismissed, replaced by scientists employed by firms with a financial interest in less stringent public health and environmental regulation.

Limiting EPA's use of scientific evidence in the name of increased transparency is simply another way to stop the government from fulfilling its mission to protect the public's health and environment. The Trump Administration has launched on a similar initiative at the Department of Interior, and if successful, it will likely attempt to similarly impede the use of science by other federal agencies including the FDA, CDC and Department of Agriculture.

By turning scientific transparency into a virtual weapon, Administrator Wheeler is inflicting severe damage to the nation's scientific enterprise. He is undermining the credibility and application of scientific evidence and impose costs and impediments that will discourage scientists from undertaking studies of great importance.

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E&E: 'Clean Economy Act': Ambitious goal but few specifics

<https://www.eenews.net/eedaily/2019/11/22/stories/1061613651>

Nick Sobczyk, E&E News reporter

Published: Friday, November 22, 2019

House Democrats yesterday introduced a broad climate change bill endorsed by more than half their caucus and virtually every major national environmental organization, an effort they hope will lay messaging groundwork for future policy.

The "100% Clean Economy Act," introduced by Rep. Donald McEachin (D-Va.) and more than 150 co-sponsors, would set a national goal to achieve net-zero greenhouse gas emissions by 2050 and direct federal agencies to draw up plans to meet the target.

The measure had been in the works for months, with environmental groups working behind the scenes to push ideas and drum up enthusiasm (E&E Daily, Nov. 20).

The Environmental Defense Fund, Natural Resources Defense Council, League of Conservation Voters and American Council on Renewable Energy, among other high-profile groups, are all backing the bill.

On substance, it does not go far beyond the messaging bill to keep the United States in the Paris climate agreement, H.R. 9, that Democrats passed through the House earlier this year (Greenwire, May 2).

Besides creating a new Clean Economy Federal Advisory Committee to guide the government on policy, the new bill offers no new authority to tax or regulate greenhouse gas emissions, and it lays out only broad principles for how agencies should work toward the net-zero goal.

Lawmakers acknowledge that additional legislation would almost certainly be necessary to actually meet the goals laid out in the "100% Clean Economy Act."

But it's the ambitious unified target, not the policy specifics, that's important in the near term, said Elizabeth Gore, senior vice president at EDF.

It's similar in some ways to the Green New Deal, in that Democrats are attempting to demonstrate that they have the right ideas about climate policy ahead of the 2020 elections, while leaving troublesome debates about specifics for later.

The legislation is intended to commit House Democrats, and ideally the federal government, to achieving net-zero emissions by 2050. That's the marker laid down by the U.N. Intergovernmental Panel on Climate Change to keep warming below 1.5 degrees Celsius over preindustrial levels.

"This bill is really about building consensus around where we're headed," Gore said in an interview.

Sponsors have said in recent weeks that they're hopeful for a floor vote, which would be entirely symbolic given that the Republican Senate would not take it up. Senate Democrats have their own special committee to draw up climate policy, which met yesterday to hear from environmental justice advocates.

For House Democrats, though, the legislation is nothing if not a coalition builder. The other lead sponsors — Reps. Deb Haaland (D-N.M.), Debbie Dingell (D-Mich.), Earl Blumenauer (D-Ore.), Paul Tonko (D-N.Y.) and Chellie Pingree (D-Maine) — all sit on different committees with pieces of jurisdiction on climate issues.

McEachin and Dingell sit on Energy and Commerce, and Tonko chairs the panel's Environment and Climate Change Subcommittee. Haaland is on Natural Resources, Blumenauer sits on Ways and Means, and Pingree has spots on the Agriculture and Appropriations committees.

The legislation also has a [letter](#) of support from eight health and medical organizations, who said meeting the 2050 target is "essential to protecting public health."

"This is really the beginning of the legislative process," Gore said, noting that E&C, the Select Committee on the Climate Crisis and others will all weigh in on more specific policy.

To that end, lawmakers made clear that there's more work to be done. E&C is also working on its own separate legislative effort to achieve net-zero emissions by 2050, though Chairman Frank Pallone (D-N.J.) is also a sponsor on the McEachin bill.

Other committee leaders have backed the measure, too, including, Natural Resources Chairman Raúl Grijalva (D-Ariz.), Financial Services Chairwoman Maxine Waters (D-Calif.) and Foreign Affairs Chairman Eliot Engel (D-N.Y.).

"I look forward to advancing this effort while continuing to build the foundation for comprehensive climate action including creating or expanding the programs, standards, investments, and other efforts that put us on the path to achieving this ambitious target," Tonko said in a statement.

Clean energy export bill

Separately, Rep. John Curtis (R-Utah) introduced a bill yesterday that reflects much of the Republican rhetoric about climate change this Congress.

The "Exporting Clean Energy Act," [H.R. 5188](#), would direct the Export-Import Bank of the United States to do more to finance clean energy development around the world.

Specifically, it would require the bank to focus on cases where competitors are competing for energy contracts and where the United States can provide a lower-emissions option.

Democrats included a provision to prop up renewable energy financing in their Export-Import Bank reauthorization bill, but it's been met with Republican opposition ([Greenwire](#), Nov. 15).

"American clean energy technology is known for being the most efficient and environmentally friendly around the world," Curtis said in a statement. "As emissions from outside the U.S. quickly approach 90% of world emissions, exporting U.S. clean energy technology ... is an important tool to uplift developing countries out of poverty while reducing global emissions."

The bill, and Curtis' statement, reflect widespread GOP arguments that U.S. clean energy technology can be a solution to climate change, as greenhouse gas emissions continue to rise in developing countries.

The proposal has support from ClearPath and Citizens for Responsible Energy Solutions, both right-leaning organizations that advocate reducing emissions through technological innovation.

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E&E: Federal watchdog says government needs a resilience strategy

<https://www.eenews.net/greenwire/2019/11/22/stories/1061618781>

[Nick Sobczyk](#), E&E News reporter

Published: Friday, November 22, 2019

The federal government does not have a coherent resilience strategy, and it's likely to cost taxpayers as climate change brings more extreme weather, the government's watchdog said in a report released today.

The federal government has spent nearly \$500 billion on disaster recovery since 2005. Last year alone, 14 separate billion-dollar climate and weather events rang up \$91 billion in total costs.

Yet the government does not have a strategy to prioritize the resilience projects that could help slash those costs, the Government Accountability Office said in the [report](#).

Lawmakers on Capitol Hill have worked to fill the gaps, including through last year's Disaster Recovery Reform Act (DRRA), in part because resilience is one of the few bipartisan areas of climate policy.

But the report highlights how far the federal government has to go, with disaster costs expected to continue rising with climate change.

Currently, federal agencies make investments in climate resilience through a patchwork of existing programs. The Federal Emergency Management Agency has a Pre-Disaster Mitigation Grant Program, for instance, and large-scale Army Corps of Engineers projects generally have some resilience benefit.

"However, additional strategic federal investments may be needed to manage some of the nation's most significant climate risks because climate change cuts across agency missions and presents fiscal exposures larger than any one agency can manage," GAO wrote.

Even those programs that do invest in resilience demonstrate the government's lackluster planning, the report said.

FEMA's pre-disaster mitigation funding is haphazard, and grant awards are capped. And because the Army Corps balances an array of different missions, including navigation and ecosystem management, climate considerations are not always prioritized.

"Even with ad hoc agency efforts, federal investment in projects specifically designed to enhance climate resilience to date has been limited," GAO said. "As stated in our Disaster Resilience Framework, most of the federal government's efforts to reduce disaster risk are reactive, and many revolve around disaster recovery."

As a potential solution to the problem, GAO laid out recommendations for the federal government, starting with simply defining its climate resilience goals.

While GAO noted that the DRRA now provides a steady stream of resilience funding that could reach \$500 million annually, it also suggested that Congress create "a federal organizational arrangement to periodically identify and prioritize climate resilience projects for federal investment."

But out of GAO's 17 existing recommendations on climate resilience planning, the government has taken action on just three, GAO said.

The report was requested by Sen. Ben Cardin (D-Md.), who said it only goes to show the federal government's financial exposure to climate change.

"Dealing with climate change has become a national security imperative and the longer we turn a blind eye to the impacts, the more costly it will be for American taxpayers," Cardin said in a statement.

"Americans have a right to expect that their tax dollars are spent on the most effective resilience projects and that Congress will do everything within its power to ensure that happens," said the senator.

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PHYS: The symbolic and substantive politics of climate change

by Steve Cohen, Earth Institute, Columbia University

<https://phys.org/news/2019-11-substantive-politics-climate.html>

How do we get from here to there? How can we decarbonize our energy addicted economies and address the global climate crisis? This weekend, the traditional Harvard-Yale football game was delayed at halftime by a demonstration advocating divestment of university endowments from fossil fuel companies. Symbolic demonstrations for symbolic policies like divestment have a role in raising awareness about the climate crisis. But ultimately, they don't do much to move us away from fossil fuel consumption. These companies don't need university endowments to attract short-term capital. However, in my view, in the long term, if fossil fuel companies don't redefine themselves as energy companies, they'll have trouble attracting investment from anyone.

These companies have capacities that could be used to accelerate the transition from fossil fuels to renewable energy. If they continue to block renewables and invest in fossil fuel extraction, they will find themselves on the wrong side of economic history. Think of the company called AT&T. They were declared a monopoly by the U.S. government and broken up into the regional "baby bells." But remember, the final "T" in AT &T stood for "telegraph." Eventually, the company got out of the telegraph business. In the cell phone era, the phone companies did not block the new technology by insisting on the sanctity of the landline phone. AT&T and all of its descendants have evolved as technologies developed. They discovered the opportunities created by new technologies and did not try (very hard) to stop them. The fossil fuel companies will find that the technology of energy generation, distribution and storage will change dramatically in the next several decades of the 21st century. The rate of change will be similar to the rate that communications technology evolved in the 20th and early 21st century. These companies can either join the party or watch from an increasingly bankrupt distance.

New technology is coming, but the climate crisis requires that these technological changes be accelerated. How can the development and use of new energy technologies be accelerated? Corporations and other large institutions such as universities have an interest in less vulnerable, less costly and less polluting energy. Much of the decarbonization now underway is a result of private and local initiatives. The protest activism of young people and the routine behavior of their older siblings working in America's institutions are starting to have a meaningful impact. There is real operational pressure on corporate and large-scale nonprofit leadership to

pursue environmental sustainability. Capital is being invested and new behaviors are being motivated. But it is not enough. In a recent [Euronews](#) interview conducted by Efi Koutsokosta, my Columbia colleague, Noble Prize winner Joseph Stiglitz, called climate change "an attack on our on our world as we know it." And he told Euronews that mobilizing resources to confront the problem is now an urgent necessity. "When we went into World War Two did anyone say, can we afford it? ... You know, I don't remember anybody saying, oh, let's surrender to the Germans because it'll cost us too much to fight. Well, we're fighting a war which is at the heart of our existence, of our standard of living. You know, in the United States, we've been losing close to 2 percent of GDP every year. You know, the fires, the floods, the hurricanes, the freezing episodes."

Professor Stiglitz is correct. We need a war-time mobilization and that requires massive public resources and public policies designed to influence private behavior and rapidly decarbonize our economy. The good news is that unlike the destructiveness of military warfare, a war on carbon would make our economy more efficient and would improve our quality of life. The simple fact is that a modern renewable energy-based economy will provide energy at a much lower price than fossil fuels. And I am not including the cost of the environmental externalities of fossil fuel use. I am simply comparing the cost of energy derived from free and plentiful sun-derived power to the power generated by increasingly inaccessible fossil fuels.

But the real work of transitioning from our current energy system to a new one will be a generation-long effort that will require imagination, good will and incredible effort. It will need concerted and coordinated action by all of the world's largest national governments. It is difficult to imagine that this will be possible in an America led by President Donald Trump, but our constitution includes presidential term limits and eventually, he will leave office and climate denial will recede. Europe, China, Japan, India and other nations may need to implement global climate policy without American leadership. Unfortunately, our abdication of leadership will impair America's long-term economic vitality if we are left behind in this energy transition. The climate crisis raises the stakes in the 2020 American national elections for president and Congress.

The work of our energy modernization will include the transition from the internal combustion engine to electric motors in the vehicles we travel and transport goods in. It will include new capacity in solar, wind, tidal, hydro and geothermal energy generation. A new, decentralized and computer-controlled electric grid will need to be built, along with the development and deployment of new energy storage technologies.

The substantive politics of climate change will be a pitched battle of new and old economic interests hopefully dominated by the public interest. Some of the politics will be "win-win" in areas such as energy efficiency policy. Funding to develop new energy technology might also be capable of generating political consensus. My hope is that as corporations see the value in the energy transition to their own cost structure, and as the better managed fossil fuel companies come to redefine themselves as [energy companies](#), the political clout of [fossil fuel companies](#) will wane. But before that happens, we can expect contentious, divisive political battles. Many billions of dollars in sunk costs devoted to fossil [fuel](#) infrastructure are at risk, and the people who own these assets will not fade quietly into the sunset.

Every aspect of our economy and virtually all of our home and family life requires massive amounts of energy. Whole parts of America were nearly uninhabitable without air conditioning. Few of us could feed ourselves for very long without the food that is shipped to our markets and our homes. Our water, sewage and waste management systems are energy-intensive. There is no turning back and no way to disconnect our daily lives from the energy system. The political and economic stakes in climate policy could not be higher.

During the first Earth Day in April 1970, protesters symbolically buried a car. A half-century later, we have more cars than ever. The symbolism of the act was powerful if puzzling to those wishing they could afford to pay for a car. But symbolic gestures gain attention and have a role to play in educating the public. At some point, symbol gives way to substance. The first Earth Day led to the creation of EPA, the Clean Air Act and the development of the pollution-reducing catalytic converter in our cars. The air slowly got cleaner. The demand for divestment, the marches at halftime, the student strikes, and the many efforts to communicate the climate emergency are all necessary although not sufficient methods for reducing greenhouse gas pollution. Today's words must lead to tomorrow's actions. The sooner the better.

Chron: Could northwest Houston superfund be affected by flooding?

<https://www.chron.com/neighborhood/champions-klein/news/article/Could-northwest-Houston-superfund-be-affected-by-14860839.php>

By Paul Wedding, Staff writer

Published 10:14 am CST, Monday, November 25, 2019

A new report released by the Government Accountability Office shows about 60% of EPA superfund sites are in areas vulnerable to potential climate change effects, such as flooding.

A superfund is an area deemed by the EPA to be contaminated by hazardous waste and needing cleanup for its risk to human health and the environment. The GAO report shows there are 15 superfund sites in the Houston area, and one in northwest Houston.

The site, called the Jones Road Ground Water Plume, is found on Jones Road near FM 1960, east of Cypress and south of Tomball. EPA originally assessed the site in 2002 and placed it on the National Priorities List in 2003. The site is in the White Oak Bayou watershed, which experienced severe flooding during Hurricane Harvey in 2017.

Background information from the EPA states the source of the contamination came from a former Bell Dry Cleaners facility at the Cypress Shopping Center, 11600 Jones Road. The operation was shut down in May 2002, and hazardous substances were found at the site, including perchloroethylene, trichloroethylene, 1,2-dichloroethylene and vinyl chloride, chemicals which can cause cancer in humans.

But the Jones Road Ground Water Plume, according to an interactive map provided with the GAO report, was one of four sites around Houston which did not have any natural hazards identified that could impact the location. 11 other sites around the Houston area were identified as having risks from maximum intensity hurricanes, flooding and sea level rises.

Robert Nairn, an environmental science professor at the University of Oklahoma who studies some superfund sites in the central U.S., said there could be risk of groundwater mixing with surface water at some sites.

“If there is the ability for interaction for that contaminated groundwater plume to interact with waters perhaps only under flooding conditions, then that obviously leads to the greater possibility of contaminant transport to a broader area,” Nairn said.

What struck him about the report, Nairn said, was that in many cases, remedial designs put in place for superfund sites don’t take into account the likelihood of precipitation or drought effects due to climate change.

“The designs are out in place to address conditions right now with no thought given to what is the likelihood of tomorrow not being like today,” Nairn said. “I think we have good data to say things are changing.”

In a written response to the report, EPA Assistant Administrator Peter C. Wright stated: “[t]he EPA strongly believes the Superfund program’s existing processes and resources adequately ensure that risk and any effects of severe weather events that may increase in intensity, duration, or frequency, are woven into risk response decisions at nonfederal NPL sites.”

Nairn said he wasn’t familiar with sites in Houston, but that he hadn’t seen evidence in the sites he has visited of EPA taking climate change into consideration for their designs.

Managers of the Jones Road Ground Water Plume superfund held a meeting in November to give the community an update of the cleanup progress at the site. In a written update, the EPA stated their overall objective is to clean the groundwater to ensure safe drinking water in the future.

Bioremediation injections were conducted at the site in January 2016 and March 2018 to reduce contamination sources, the update stated, and recent sampling shows there has been reduction in chemical contaminant levels in the shallow groundwater.

Indoor exhaust systems were also installed in three of the Cypress Shopping Center suites in May 2018 to remove chemical contaminants that migrated into the building from soil below. The report detailed that sampling showed the contaminant levels in the indoor air have returned to safe levels.

Most recently, a soil vapor extraction system was installed and began operating in July. The system, the report states, will further remove sources of contamination in the groundwater and prevent additional air contamination by removing chemical contaminants in the soil. The system is expected to remain operational for up to two years.

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E&E: Ohio to create wetlands as part of algae-fighting strategy

<https://www.eenews.net/greenwire/2019/11/22/stories/1061617921>

Published: Friday, November 22, 2019

Ohio will begin work in the coming months on creating and restoring wetlands as part of its new strategy to deal with the toxic algae blooms that have plagued Lake Erie for years, state leaders said yesterday.

Three of the sites are along the lake's shoreline near Toledo, and the others are near inland streams and rivers that drain into the lake's western end, which is where the algae are concentrated each summer.

But those are the first of many wetland projects Ohio plans on undertaking, said Mary Mertz, director of the Ohio Department of Natural Resources.

The state has 23 sites so far where it wants to restore or create new wetlands, which slow down runoff from farm fields while also filtering and capturing the phosphorus from fertilizers that feed the algae.

Ohio Gov. Mike DeWine (R) outlined the state's plan for dealing with Lake Erie's persistent algae last week ([Greenwire](#), Nov. 15). Much of that will focus on agriculture runoff, including offering farmers financial incentives to change their practices.

The state's natural resources department said it thinks that adding more wetlands can make a significant contribution to the state's pledge to make a 40% reduction in the amount of phosphorus entering the lake by 2025, Mertz said.

The first wetlands projects will cover roughly 450 acres — some will turn existing farmland into wetlands, while others will restore existing floodplains and wetlands so that water can be filtered.

Two of the sites are at the mouth of the Maumee River, which research shows is the largest source of phosphorus and nitrogen going into the lake. The river's watershed in northwestern Ohio drains land that is almost entirely in farm production.

Water from the river will be redirected through those two new wetland areas.

The state didn't immediately release the costs of the projects, which will be funded by local, private and state money. Ohio's share will come from the \$172 million state lawmakers approved this summer to spend on water quality improvements. — John Seewer, Associated Press

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Tribune Star: EPA wants to clarify public waterway rules

https://www.tribstar.com/news/indiana_news/epa-wants-to-clarify-public-waterway-rules/article_d4b161f2-2392-5302-b425-d67497c9514f.html

Director's push may stem from his experiences in Indiana

By Scott L. Miley CNHI News Indiana • Indianapolis

U.S. Environmental Protection Agency staffers have been told that the top issue in rewriting federal water regulations is to simplify rules initiated under the Obama administration, according to the current EPA administrator.

“I wanted property owners to be able to stand on their property and be able to tell for themselves what is the definition of a federal waterway, whether or not they have a federal waterway on their property, without having to hire an outside lawyer or consultant,” Administrator Andrew Wheeler told 175 people at the annual Indiana Environmental Conference last month.

Wheeler said the Obama-era “Waters of the U.S.” rules, a key element of the 2015 Clean Water Act, were convoluted.

“In fact, the definition was so far-reaching that they needed to clarify in the regulatory text that puddles were excluded,” he said.

The ongoing repeal of the Clean Water Act follows an executive order from President Trump seeking pollution-free navigable waters while promoting economic growth and minimizing “regulatory uncertainty.”

Some in the audience at the Indiana Chamber of Commerce conference questioned Wheeler’s announcement that the rules would be simplified.

“I was struck by the administrator’s comment that in their new rule they want to go to something that would allow a property owner to stand on his property and say that’s a water of the U.S. and that isn’t,” said Indianapolis attorney Curt DeVoe, a partner with the Plews Shadley Racher & Braun law firm.

DeVoe has worked on numerous environmental compliance and litigation cases.

“I don’t think that’s a very manageable standard. ... Think about the range of land owners making that determination. There are landowners who would say this is my private property and there is no federal jurisdiction anywhere,” DeVoe added.

One change involves agricultural ditches running through farmland that may carry water, or agricultural chemicals, to a larger stream or river.

“We are specifically excluding agricultural ditches. They will no longer be considered Waters of the U.S.,” Wheeler said.

A reason? It may go back to Wheeler’s experiences as a private lawyer in Indiana.

In a short interview, he recalled a case of an Indiana farmer whose ditch was inspected by the Army Corps of Engineers. That inspector told the farmer that the ditch was a water of the U.S.

The farmer responded that the EPA eliminated such ditches from the rules.

“And that inspector said, ‘I get to decide what is and what is not a Water of the U.S.,’” Wheeler said.

Wheeler said the new rules will help guide individual inspectors who “make up the rules as they go along.”

The EPA may rely on states to enforce more jurisdiction, Wheeler said.

“If the federal government were to walk away tomorrow from regulating waters of the U.S. — we’re not going to, but if we were — most of the major water bodies would still be covered by state laws,” he said.

While in Indianapolis, Wheeler announced issuance of \$436 million in low-interest loans from the federal Water Infrastructure Finance and Innovation Act for 20 Indiana projects.

Wheeler called it one of the “most consequential” loans ever issued by the EPA.

“Our effort is to modernize the state of Indiana from the smallest community to the largest, and that was represented in this package,” Gov. Eric Holcomb said.

The projects total \$910.3 million in costs and include a new \$22 million water treatment plant in Greensburg, \$2.2 million in water system improvements in Greentown and \$182 million for a long-term plan to control wastewater in Evansville.

“This is the first time that a state is using the WIFIA funds to help finance projects in rural communities,” Wheeler said. “We wanted this to be a model for other states to follow.”

The remainder of the loans will come through the Indiana Finance Authority’s uncommitted revolving fund balance. The current interest rate is 2%.

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Bloomberg: Tesoro Socal Pipeline Can’t Shake Long Beach Cleanup Order

<https://news.bloombergenvironment.com/environment-and-energy/tesoro-socal-pipeline-cant-shake-long-beach-cleanup-order>

By [Peter Hayes](#)

Nov. 25, 2019, 12:52 PM

Tesoro Socal Pipeline Company LLC failed to brush off a cleanup order issued by the Los Angeles Regional Water Quality Control Board for benzene contamination from its pipelines, after a California appeals court found the date of the initial spill didn’t bar the order.

The cleanup order wasn’t an unlawful retroactive application of the state water pollution law, the Second Appellate District of the California Court of Appeals said Nov. 22.

Even if the initial leak occurred before the Porter-Cologne Water Quality Control Act of 1969 was enacted, the “discharge” of pollutants under the act also includes continuing subsurface migration, the court said.

And there was plenty of evidence in the administrative record to show that Tesoro’s pipelines were the source of the contamination, the court said.

Soil vapor data showed benzene contamination near Tesoro’s pipelines, and the board found no other source of gasoline contamination, the court said.

The only other party with a pipeline in the area, Plains All American Pipeline LP, transported crude oil, which the board's testing ruled out as a source of the contamination, the court said.

The case involves soil contamination in the Wrigley Heights neighborhood in Long Beach, Calif.

Judge Ann I. Jones wrote the opinion, joined by Judges Lee Smalley Edmon and Halim Dhanidina.

Meyers Nave Riback Silver & Wilson PLC represents Tesoro.

The case is Tesoro Ref. & Mktg. Co. v. L.A. Reg'l Water Quality Control Bd., 2019 BL 451461, Cal. Ct. App., 2d Dist., No. B288889, unpublished 11/22/19.

To contact the reporter on this story: Peter Hayes in Washington at PHayes@bloomberglaw.com

To contact the editors responsible for this story: Rob Tricchinelli at rtricchinelli@bloomberglaw.com; Patrick L. Gregory at pgregory@bloomberglaw.com

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Inside EPA: D.C. Circuit Will Review EPA Duty For Adding 'Missing' Toxics To Air Rules

<https://insideepa.com/daily-news/dc-circuit-will-review-epa-duty-adding-%E2%80%99missing%E2%80%99-toxics-air-rules>

November 25, 2019

A three-judge panel of the U.S. Court of Appeals of Columbia Circuit will at Dec. 4 oral argument review whether EPA has a Clean Air Act duty to add to existing national emissions standards for hazardous air pollutants (NESHAP) limits for "missing" air toxics not covered under the original versions of the sector-specific policies.

Judges Karen Henderson, Nina Pillard and David Sentelle at Dec. 4 arguments will hear environmentalists' case that EPA has unlawfully failed to add emissions limits for pollutants "missing" from the agency's original 2001 air toxics rule for the pulp mills sector, in *Louisiana Environmental Action Network, et al., v. EPA, et al.* Although the court's eventual ruling addresses one sector's rule, it could affect other NESHAPs depending on the decision.

The suit, filed by three environmental groups, challenges EPA's 2017 risk and technology review (RTR) of its 2001 pulp mills NESHAP. In the 2017 rule, the agency opted against adding limits for more pollutants.

Under the Clean Air Act, EPA must conduct RTRs eight years after issuing an industry-specific NESHAP.

If the agency finds "residual" risks to public health from a sector's emissions, or new, cost-effective control technology, or both, it can tighten the standards. But EPA argues that it is under no obligation to add limits for pollutants not already regulated under a NESHAP when the standards are reviewed.

Environmentalists in the suit refute this argument, saying the 2017 RTR rule for the pulp mills sector violated air law requirements by failing to set limits for toxic pollutants omitted from its 2001 NESHAP rule. The litigation also contests EPA's 2018 denial of environmentalists' petition for reconsideration of the 2017 rule.

The environmental groups claim the agency has omitted required limits for mercury, dioxins, polycyclic organic matter, hydrogen chloride and hydrogen fluoride, all emitted by pulp mills.

The case appears to represent a first-time test of whether the agency unlawfully departed from prior practice under the Obama EPA, which typically used NESHAP reviews to set emissions limits for HAPs not included in the original rules, environmentalists say. Unusually however, the Obama administration proposed not to set new

emissions limits in the pulp mills RTR, and the Trump administration then finalized the rule as proposed in 2017.

Environmentalists say the Obama EPA offered no explanation for the omission of new air toxics limits, and the Trump administration was wrong to finalize the rule as proposed, and then refuse reconsideration of the RTR.

In their Sept. 12 final reply brief in the case, the environmental groups say, “EPA acknowledges that its emission standards for the pulp mills category lack limits on listed hazardous air pollutants that pulp mills emit. And EPA does not deny that, because its standards lack these limits, pulp mills are pouring millions of pounds of uncontrolled hazardous air pollutants into neighboring communities each year.”

EPA insists the air law “unambiguously” precludes RTRs from including previously unregulated pollutants, but this misreads air law section 112, which regulates air pollutants and requires RTRs, environmentalists say.

Because EPA insists its statutory interpretation is the only one possible, it is not entitled to deference from the court under the Chevron legal doctrine, environmentalists say. Under Chevron, courts defer to federal agencies’ reasonable interpretations of ambiguous statutes -- but EPA claims no such ambiguity exists.

“EPA cannot identify any explanation in the record for departing from its consistent past practice of setting limits for uncontrolled pollutants in the course of its [RTR] rulemakings,” and this failure to provide a rationale renders its RTR rule “arbitrary and capricious,” they argue.

Environmentalists seek remand, but not vacatur, of the RTR, in order to allow EPA to strengthen the NESHAP by adding limits for the missing pollutants.

EPA’s Defense

EPA in its Sept. 4 final brief disputes this view of the air law and its responsibilities under the air toxics program. Air law section 112(d)(6) “does not, by its plain terms, impose upon the agency any obligation to ‘promulgate’ new emission standards. That statutory provision refers only to review of emission standards that have already been ‘promulgated,’” EPA says.

“The agency’s initial promulgation of emission standards for unaddressed pollutants does not fall within the scope of the post-promulgation technology review process,” EPA says, adding that section 112(d)(6) is “is not a reset button.”

The American Forest and Paper Association (AFPA) is intervening in the suit on EPA’s behalf, urging the court to uphold the agency’s final RTR.

The group in its Sept. 11 intervenor brief says environmentalists lack standing to sue, and therefore the court can dismiss the case on procedural grounds without addressing the merits of the petitioners’ claims.

“Their general claims of continued injury from EPA’s alleged failure to regulate certain hazardous air pollutant (‘HAP’) emissions cannot overcome EPA’s scientific determination, which Petitioners have not contested, that all pulp and paper mill HAP emissions, including the allegedly ‘unaddressed pollutants,’ do not exceed levels protective of human health, with an ample margin of safety.”

Echoing EPA, AFPA also alleges the lawsuit is a belated attack on the underlying 2001 NESHAP rule, brought years too late under air law filing deadlines for judicial review. -- Stuart Parker (sparker@iwpnews.com)

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FB: Farm Bureau to EPA: Small Refinery Waivers Must be Based on Actual Exemptions

<https://www.fb.org/newsroom/farm-bureau-to-epa-small-refinery-waivers-must-be-based-on-actual-exem>

A proposed rule to implement the Environmental Protection Agency's Renewable Fuel Standard fails to account for the real harm caused by the agency's excessive use of small refinery exemptions over the past three years, the American Farm Bureau Federation warned today.

"In recent years, the number of small refinery exemptions has increased dramatically, which is problematic because it means refiners blend fewer gallons of renewable fuels into gasoline," AFBF said in recent comments on the proposal.

Between 2013 and 2015, EPA granted no more than eight small refinery waivers per year. The current administration retroactively approved 19 waivers for 2016, granted 35 waivers in 2017 and another 31 in 2018 – ultimately exempting more than 4 billion gallons of renewable fuel obligations over the past three years.

The organization also took issue with the percentage of exemption applications that have been approved since 2016. Before the current administration took office, EPA approved between 50% and 62% of the applications. Under this administration, EPA approved 95% of the exemptions requested in 2016 and 2017 and 74% of the petitions in 2018 – after prolonged pushback from key agriculture and biofuel industry stakeholders.

"These decisions have had significant impacts on struggling farmers, who have watched the demand for corn grown for ethanol drop as the renewable fuel volume obligations diminish with each exemption granted. It is alarming that the agency will continue down this path as farmers are facing extreme weather challenges, trade headwinds and a rural economy nearing its breaking point," Farm Bureau said.

The main problem with EPA's proposal is that it bases the projected volume of gasoline and diesel that would be exempt in 2020 on the three-year rolling average of relief recommended by the Department of Energy, rather than the three-year rolling average of actual exemptions.

"This is problematic because DOE's projections for the volume of biofuels that will be exempted are often much lower than actual exemptions," Farm Bureau explained.

Farm Bureau is also calling for the inclusion of language in the final 2020 renewable volume obligations that binds EPA by regulation to use the three-year rolling average of actual exemptions in all future renewable volume obligation rulemakings, not just 2020.

Contact:

Cole Staudt
Media Relations Specialist
(202) 406-3643
coles@fb.org

Will Rodger
Director, Policy Communications
Office (202) 406-3642
willr@fb.org

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The Neighbor: AG Nessel joins lawsuit opposing EPA attempts to revoke California's control of emission standards

https://www.mdjonline.com/neighbor_newspapers/extra/news/ag-nessel-joins-lawsuit-opposing-epa-attempts-to-revoke-california/article_d415757f-8214-5e4d-8d99-e5ade7283965.html

By Scott McClallen | [The Center Square](#)

Nov 25, 2019

Michigan Attorney General Dana Nessel joined a lawsuit with 23 other AGs against the Environmental Protection Agency's attempt to revoke a 2013 waiver allowing California to set its greenhouse gas (GHG) and zero-emission vehicle (ZEV) standards.

The EPA under Section 209 of the Clean Air Act allows California to choose its emission regulations instead of adhering to federal regulations unless the state:

- Was arbitrary and capricious in its finding that its standards are, in the aggregate, at least as protective of public health and welfare as applicable federal standards;
- Does not need such standards to meet compelling and extraordinary conditions; or
- Has standards and accompanying enforcement procedures not consistent with this section.

The lawsuit, filed in the United States' Court of Appeals in the Washington circuit, requests a review of "The Safer Affordable Fuel-Efficient (SAFE) Vehicles rule that would rescind the Golden State's authority to enforce its Advanced Clean Car (ACC) regulations regarding GHG and ZEV programs.

That would mean no state could set stricter emission controls than those chosen by the federal government because Section 177 of the Clean Air Act allows other states to wholly or partially adopt California's regulations, which 13 have mirrored, according to The Center for Climate and Energy Solutions.

The filing includes a protective petition for the court to review a separate National Highway Traffic Safety Administration (NHTSA) regulation, the Energy Policy and Conservation Act, which preempts California's GHG and ZEV standards.

The group originally filed a federal lawsuit in the United States District Court for the District of Columbia challenging the constitutionality of NHTSA regulations, which the federal government moved to dismiss, saying it belonged in the D.C Circuit Court.

The protective petition allows the group judicial review to challenge NHTSA regulations if the district court lacks jurisdiction.

Nessel notified the House and Senate appropriations chairs of the state joining the lawsuit and is offering to provide additional information, a news release said.

"Attempting to strip states' of their rights to protect the environment seems to be a recurring theme for the current administration and while Michigan has not adopted California's Advanced Clean Car Standards, I am joining California to fight against the Trump administration's campaign to end that state's longstanding authority to set its own vehicle emissions standards," Nessel said. "This latest attack on states' efforts to protect their residents and environment is an abuse of federal authority and should be opposed."

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